TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 332.

HENRY B. F. MACFARLAND, JOHN W. ROSS, AND JOHN BIDDLE, COMMISSIONERS OF THE DISTRICT OF COLUMBIA, APPELLANTS,

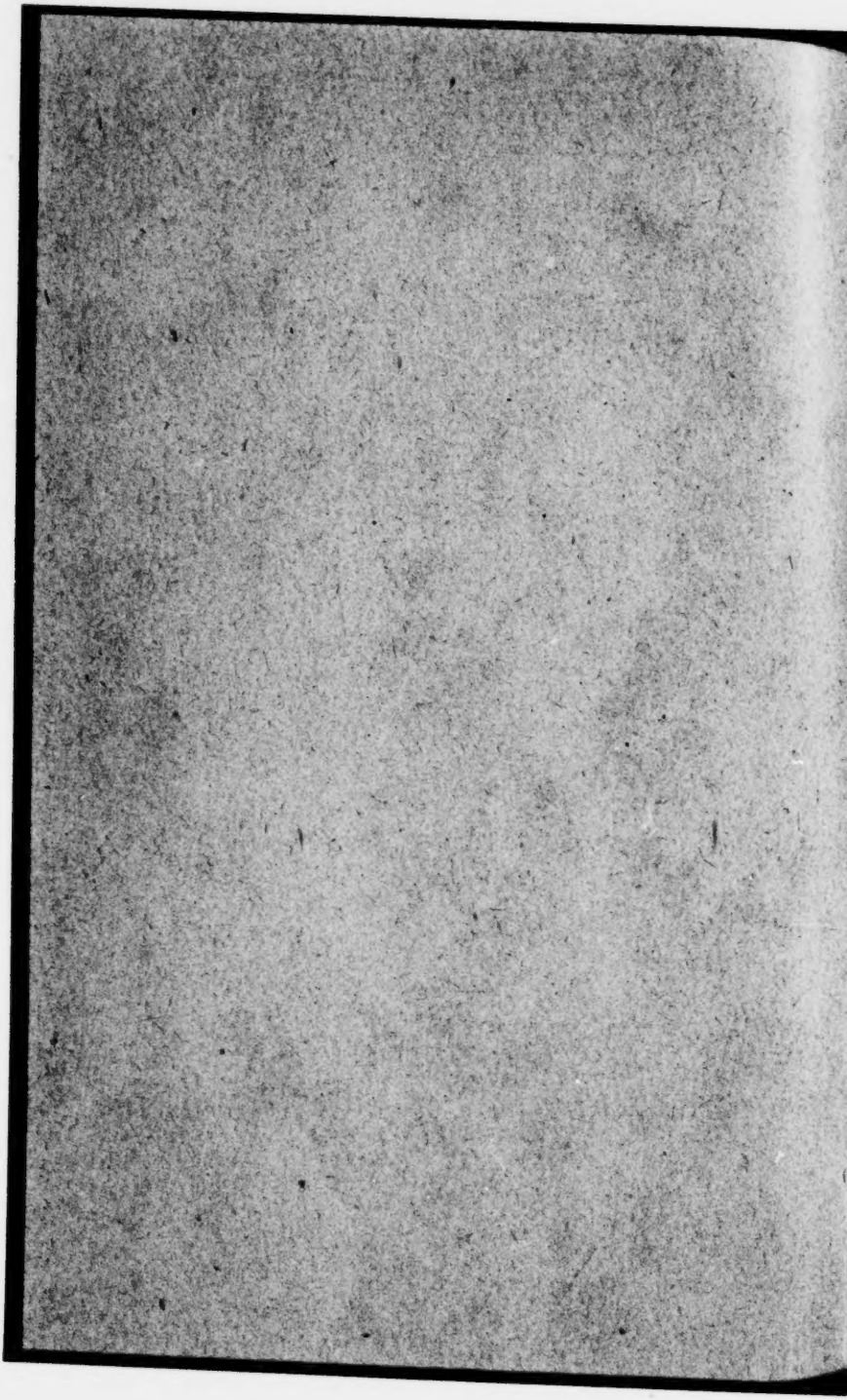
vs.

EUGENE BYRNES ET AL.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

FILED MAY 24, 1902.

(18,541.)



(18,541.)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1902.

No. 332.

HENRY B. F. MACFARLAND, JOHN W. ROSS, AND JOHN BIDDLE, COMMISSIONERS OF THE DISTRICT OF COLUMBIA, APPELLANTS,

vs.

EUGENE BYRNES ET AL.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

INDEX.

	Original.	Print.
Caption	1	1
Transcript from the supreme court of the District of Columbia	1	1
Caption	1	1
Petition	1	1
Plat	2	2
Order for appearance of persons interested	2	2
Return of marshal on order for appearance	3	3
Memorandum: Proof of publication of order for appearance filed	7	7
Order to summon jury	7	7
Exceptions of C. S. Bundy to court's instructions to jury	8	8
Objections of C. S. Bundy to any assessments of lots 9 and 11	9	9
Court's instructions to jury	10	10
Memorandum: Verdict of jury filed	11	11
Exception of Charles M. Carter to assessment of lot 14, block 22	11	11
Order *nisi*	12	12
Memorandum: Proof of publication of order *nisi* filed	29	29
Answer of C. S. Bundy to rule	29	29
Protest of Philip Mauro	30	30
Objections of Mary C. Sullivan to confirmation of award	31	30

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., OCTOBER 22, 1902.

	Original.	Print
Exceptions of Avarilla Lambert to verdict	32	31
Return of marshal upon order *nisi*	33	33
Exceptions of I. L. Blount *et al.* to award of jury	37	37
Objections to confirmation of assessments for benefits by—		
John Sherman and A. M. Hoyt	38	38
Allen S. Johnson	39	38
Herbert W. Porter	39	39
N. M. Leadingham	40	39
S. E. Henry	40	39
George S. Cooper	40	40
T. B. Brock	41	40
Joseph H. Sweeney	41	40
Rosa E. Gerhold	42	41
Abner Greenleaf	42	41
Edgar C. Kellogg	42	42
M. M. Parker and P. Pulsifer	43	42
Louis H. Schneider *et al*	43	42
L. H. Meyers and Victor Anderson	44	43
Thomas H. G. Todd	44	43
Fannie E. Pate	44	44
Wm. Holmead and Wm. H. Saunders	45	44
Motion to confirm verdict	45	44
Confirmation of award and assessments	46	45
Appeal of petitioners allowed	47	46
Time to file transcript in Court of Appeals extended	47	46
Directions to clerk for preparation of record	47	47
Time to file transcript further extended	48	47
Clerk's certificate	48	48
Writ of certiorari and return	50	48
Verdict and award of jury	51	49
Schedule 1	52	50
Schedule 2	55	53
Clerk's certificate	74	73
Order substituting new Commissioner as party	76	73
Order substituting new Commissioner as party	76	73
Order substituting new executors of Sherman as parties	76	74
Minute entry of argument	77	74
Opinion	78	74
Decree	81	78
Order allowing appeal	82	78
Clerk's certificate	83	79

1 In the Court of Appeals of the District of Columbia.

JOHN B. WIGHT ET AL., Appellants,
vs.
EUGENE BYRNES ET AL. } No. 1039.

Supreme Court of the District of Columbia.

In re EXTENSION OF ELEVENTH STREET NORTHWEST. No. 556, District Court.

UNITED STATES OF AMERICA, *District of Columbia*, } *ss*:

Be it remembered that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

Petition of John B. Wight et al., Commissioners, for Condemnation of Right of Way for Extension of Eleventh Street.

Filed May 31, 1899.

In the Supreme Court of the District of Columbia, Sitting as a District Court of the United States for said District.

In re EXTENSION OF ELEVENTH STREET NORTHWEST. No. 556.

To the supreme court of the District of Columbia, sitting as a district court:

The petition of John B. Wight, John W. Ross, and Lansing H. Beach, Commissioners of the District of Columbia, respectfully shows as follows:

1. That Congress by act approved March 3, 1899, entitled "An act to extend S street, in the District of Columbia, and for other purposes," directed your petitioners to institute by a petition in the supreme court of the District of Columbia, sitting as a district court, a proceeding to condemn the land necessary for the extension of Eleventh street northwest on a straight extension of the lines thereof as now established in the city of Washington, with a width of ninety feet, from Florida avenue to Harvard street, and thence, with the same width and in a straight line, to Lydecker avenue, joining said avenue with its center line opposite the center line of Eslin avenue, under and according to the provisions of chapter eleven of the
2 Revised Statutes of the United States relating to the District of Columbia.

2. That a map of the proposed extension of Eleventh street, showing the number and designation of lots affected, the names of the owners thereof, and the areas of land required for the extension, has been prepared, and a copy thereof is annexed as a part of this petition, marked "Exhibit D. C. No. 1."

3. That said act provides, among other things, that of the amount found due and awarded as damages for and in respect of the land condemned for the extension of the said Eleventh street at least one-half thereof shall be assessed by said jury against those pieces or parcels of ground abutting that portion of the street to be opened, and extending to a depth of two hundred feet from the building lines of said Eleventh street as extended.

Wherefore your petitioners pray this honorable court to direct the marshal of the District of Columbia to summon a jury of seven judicious, disinterested men, not related to any party interested, to be and appear on the premises, on a day specified, to assess the damages, if any, which each owner of land through which Eleventh street is proposed to be extended, as aforesaid, may sustain by reason thereof, and that such other and further orders may by made and proceedings had as are contemplated by said act of Congress and by chapter eleven of the Revised Statutes of the United States relating to the District of Columbia, to the end that a permanent right of way for the public over said lands may by obtained and secured for the aforesaid extension of Eleventh street; and they will ever pray, etc.

JOHN B. WIGHT,
JOHN W. ROSS,
LANSING H. BEACH,
Commissioners of the District of Columbia.

S. T. THOMAS,
A. B. DUVALL,
Attorneys for Petitioners.

(Here follows plat marked p. 3*a*.)

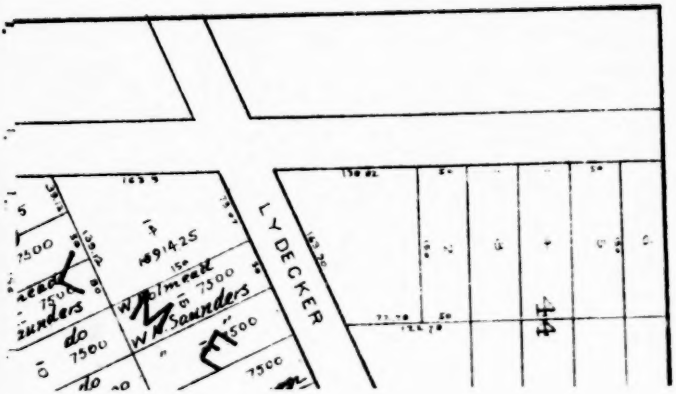
Order for Appearance of Parties Interested.

Filed September 16, 1899.

In the Supreme Court of the District of Columbia, Sitting as a District Court.

In re THE EXTENSION OF ELEVENTH STREET NORTHWEST. No. 556.

Notice is hereby given that the Commissioners of the District of Columbia, pursuant to the provisions of an act of Congress approved March 3, 1899, entitled "An act to extend S street, in the Distrtct of Columbia, and for other purposes," have filed a petition in this
3 court praying the condemnation of the land required for the extension of Eleventh street northwest on a straight extension of the lines thereof as now established in the city of Washington, with a width of ninety feet, from Florida avenue to Harvard street, and thence, with the same width and in a straight line, to Lydecker avenue, joining said avenue with its center line opposite the *the* center line of Eslin avenue, as shown on a plat or map prepared by said



FOLD OUT IS TOO LARGE TO BE FILMED

[M. C. Mattingly]* (Francis W. Baker, present owner).

[* Names enclosed in brackets erased in copy.]

Commissioners and annexed to their said petition and marked "Exhibit D. C. No. 1;" and praying also that a jury be summoned by the marshal, in accordance with the provisions of chapter eleven (11) of the Revised Statutes of the United States relating to the District of Columbia, to ascertain the damages for and in respect of the land proposed to be condemned for the extension of said Eleventh street, and to assess at least one-half thereof against those pieces or parcels of ground abutting that portion of the street to be opened and extending to a depth of two hundred feet from the building lines of said Eleventh street as extended.

It is ordered, this 16th day of September, A. D. 1899, that all persons interested in the proceedings be, and they are hereby, required to appear in this court on or before the 2d day of October, 1899, to show cause, if any they have, why the prayer of said petition should not be granted and why the proceedings directed in said act of Congress should not be taken:

Provided a copy of this order be published in the Evening Star and the Washington Times newspapers at least six times, and in the Washington Law Reporter once, before the 2d day of Oct., 1899.

By the court:

CHAS. C. COLE,
Asso. Justice.

Marshal's Return of Service of Order of September 16, 1899.

Filed October 2, 1899.

In re CONDEMNATION OF LAND FOR THE EXTENSION OF ELEVENTH STREET. No. 556, Dist. Ct.

Copies of the order of court made herein Sept. 16, 1899, have been served on the property-holders in said case on the dates and in the manner indicated, viz:

Sept. 28, 1899. W. Holmead, personally.
" 26, " W. H. Saunders, personally.
" 30, " J. T. Lenman, deceased, heirs not found.
" 27, " A. Grant, personally.
" 27, " A. Grant, trustee, personally.
" 27, " G. F. Stone, trustee, personally.
" 30, " L. I. Stanton, not found.
" 27, " F. E. Pate, personally.

4

" 27, " C. E. Foster, personally.
" 26, " C. C. Bryan, personally.
" 26, " J. Rudden, personally.
" 26, " J. Connor, personally.
" 28, " E. P. Goodrick, personally.
[M. C. Mattingly]* (Francis W. Baker, present owner).

[* Names enclosed in brackets erased in copy.]

" 29, " J. H. Sweeney, mailed, Osage, Iowa.
" 27, " J. C. Walker, personally.
" 26, " J. G. Meyers, personally.
" 27, " E. Byrnes, personally.
" 30, " J. H. Elsworth, not found.
" 26, " H. W. Porter, personally.
" 27, " J. G. Muir, personally.
Sept. 26, 1899. T. Outwater, personally.
" 30, " C. S. Elliott *et al.*, not found.
" 27, " P. Mauro, personally.
" 26, " W. C. Duvall, personally.
" 28, " R. E. Gernold, personally.
" 27, " E. S. Holmes, personally.
" 30, " J. G. A. Hullander, not found.
" 30, " L. L. Hollandey, not found.
" 28, " J. F. Waggaman, mailed, Reform Club, N. Y. [F. G. Aukam]* (W. P. Springer, present owner, below).
" 27, " J. B. Williamson, Jr., personally.
" 28, " M. C. Ford, Jr. personally.
" " " J. J. Albright, mailed, Ellicott square, Buffalo, N. Y. [J. M. Morris.]*
" 30, " J. Hill, not found.
" 28, " H. E. Riggs, personally.
" 30, " L. Taylor, not found.
" 30, " M. Taylor, not found.
" 30, " S. Behrend, not found.
" 30, " W. O'Brien, not found.
" 29, " C. C. Kellogg, mailed to Fifth Avenue hotel, N. Y.
" 28, " W. P. Springer, personally.
" 30, " A. Greenleaf, not found.
" 30, " W. B. Fellows, not found.
" 30, " A. N. Blanchard, not found.
" 30, " A. C. Brainard, not found.
" 26, " M. M. Parker, personally.
" 30, " B. W. King, not found.
" 29, " J. Gibbons, mailed, Baltimore, Md. (Cardinal).
" 30, " O. J. Moat, not found.
" 27, " L. C. F. Hugo, personally.

5

Sept. 27, 1899. M. C. Hooker, personally.
" 30, " E. V. Lane, not found.
" 26, " F. B. Brock, personally.
" 26, " C. A. Corey, personally.
" 30, " F. M. Pierce, not found.
" 30, " R. W. Williams, not found.
" 30, " H. Lomax, not found.
" 27, " D. Catlett, personally.
" 26, " G. Ware, personally.
" 27, " D. Crawford, personally.

" 26, " G. T. Arms, personally.
" 27, " T. H. G. Todd, personally.
" 29, " R. Wallach, copy at place of residence.
" " " J. Brown, copy at place of residence.
" 28, " A. J. Sorrells, personally.
S. P. Grogan.
" 27, " C. Newell, personally.
" 30, " E. R. Cooper, not found.
" 26, " J. W. Morris, personally.
" " " Dist. of Col., personally on John B. Wight, Pres. Bd. Comm'rs.
" 27, " C. M. Carter, personally.
" " " W. W. Gibson, personally.
" " " D. Edmund, personally.
" 30, " A. R. Ruffin, not found.
[A. J. Miller.]*
" 30, " W. W. McKalt, not found.
" 27, " T. R. Strothers, personally.
" 27, " C. H. Ware, personally.
Sept. 26, 1899. W. Nordlinger, personally.
" " " M. Faherty, personally.
" 27, " J. T. Thurston, personally.
" 27, " C. P. Scott, personally.
" 30, " T. Fields, not found.
" 26, " L. M. Saunders, personally.
" 27, " A. S. Johnson, personally.
" [27]* " [E. B. Olmstead] (Miranda W. Fuller, present owner).
" 30, " C. E. Voheland, not found.
" 30, " H. C. Machette, not found.
" 30, " A. G. Machette, not found.
" 26, " W. D. West, personally.
" 27, " G. C. Johnson, personally.
" 28, " D. S. Williamson, personally.
[E. H. Booth]* (M. V. Hixson, present owner).

6

" 28, " A. L. White, mailed, 115 Broadway, N. Y.
" 30, " E. J. McCubbin, not found.
" 28, " W. M. Stuart, personally.
" 30, " T. B. Saunders, not found.
" 27, " A. Lambert, mailed, Oakland, Garrett Co., Md.
" 27, " S. D. Lincoln, personally.
" 30, " A. North, not found.
" 26, " H. E. Gasch, personally.
" 30, " C. Mytinger, not found.
" 27, " J. Seibel, personally.
" 27, " W. P. Kellogg, mailed, Fifth Avenue hotel, N. Y.
" 28, " F. Cotton, mailed, The Chestnut, Riverdale, N. Y.
" 27, " A. M. Cocks, mailed, Mianus, Conn.
" 27, " N. A. Poole, personally.

[* Names and dates enclosed in brackets erased in copy.]

" 27, " W. J. Leishear, personally.
" 30, " E. D. Berry, not found.
Sept. 26, 1899. R. B. Bare, personally.
" 28, " P. Pulsifer, Jr., mailed, 16 Drummond St., Auburn, N. Y.
" 30, " M. C. Sullivan, not found.
" 26, " S. A. Reeves, personally.
" 30, " J. B. Laybrook, not found.
" 28, " M. C. Spelhouse, personally.
" 27, " I. W. Nordlinger, personally.
" 26, " J. L. Blout, personally.
" 28, " H. F. Samstag, mailed, New York, N. Y.
" 29, " G. S. Cooper, personally.
" 27, " A. J. Miller, mailed, 58 Pine St., N. Y.
" 30, " J. Laing, not found.
" 30, " W. G. Gray, not found.
" 30, " A. B. Prigg, not found.
" 26, " S. J. Cunningham, personally.
" 30, " F. A. Dailey, not found.
" 27, " S. A. Duchesne, personally.
" 30, " R. P. Fletcher, not found.
" 27, " W. Lampson, mailed, Jefferson, Ohio.
" 27, " S. C. Lovejoy, mailed, Rockland, Maine.
" 26, " C. J. Mehoff, personally.
" 30, " S. N. Mackenzie, not found.
" 30, " H. A. Pixton, not found.
" 30, " Max Grief, not found.
" 28, " Cora Behrend, mailed, 355 Broadway, N. Y.
" 30, " W. J. Faith, not found.
Sept. 26, 1899. A. D. Prince, personally.
" 28, " Max Luchs, deceased, personally on Julia Luchs, sole heir.
" 26, " C. S. Bundy, personally.

7

" 30, " R. F. Elliott, not found.
" 27, " G. J. Mueller, personally.
" 28, " J. W. Schaefer, personally.
" 28, " T. R. Willey, personally.
" 28, " E. G. Jefferys, personally.
[E. J. Jefferys.]*
" 29, " Mary S. Logan, mailed, Chicago, Ill.
" 29, " John Sherman, personally on M. M. Parker, agent.
" 29, " A. M. Hoyt, mailed, No. 1 Broadway, N. Y.
" 29, " J. D. Simmons, personally.
" 28, " Samuel Ross, personally.
" 27, " Robert B. Brown, personally.
" 27, " Miranda W. Fuller, personally.
" 28, " M. V. Hixson, personally.
" 30, " Francis W. Baker, personally.

[*Names enclosed in brackets erased in copy.]

Where the party was not to be found in the District of Columbia, a copy of said order was mailed to the last known address of said party, enclosed in a postpaid official envelope.

AULICK PALMER,
U. S. Marshal.

R.

Sept. 30, 1899.

Memorandum.

Proof of publication of said order in The Evening Star, The Washington Times, and Washington Law Reporter filed.

Order Directing Marshal to Summon Jury.

Filed November 10, 1899.

In the Supreme Court of the District of Columbia, Holding a District Court for said District.

In re THE EXTENSION OF ELEVENTH STREET NORTHWEST. No. 556.

On consideration of the petition of the Commissioners of the District of Columbia, filed herein, and it appearing to the court that the notice heretofore ordered herein has been duly published, it is, this 10th day of November, A. D. 1899, on motion of counsel for said Commissioners, ordered that the United States marshal for the District of Columbia summon a jury of seven (7) judicious, disinterested men, not related to any party interested in this proceeding, to be and appear upon the premises described in the petition herein on a day specified, to assess the damages, if any, which each owner of land may sustain by reason of the extension of Eleventh street northwest on a straight extension of the lines thereof as now established in the city of Washington, with a width of ninety
8 (90) feet, from Florida avenue to Harvard street, and thence, with the same width and in a straight line, to Lydecker avenue, joining said avenue with its center line opposite the center line of Eslin avenue, as prayed in said petition; and of the amount found due and awarded damages by said jury in respect of the land condemned for the extension of said Eleventh street at least one-half thereof shall be assessed by said jury against those pieces or parcels of ground abutting that portion of the street to be opened and extending to a depth of two hundred (200) feet from the building lines of said Eleventh street as extended; and to further proceed in accordance with the act of Congress approved March 3, 1899, entitled "An act to extend S street, in the District of Columbia, and for other purposes."

By the court:

A. B. HAGNER,
Asso. Justice.

Exceptions to Instructions of Justice Hagner to Jury.

Filed December 16, 1899.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re THE EXTENSION OF ELEVENTH STREET N. W.

1. Now comes the respondent, Charles S. Bundy, in his own proper person, and says that he is the owner of lots No. 9 and 11, in block No. 12, in Todd & Brown's sub. of Mount Pleasant and Pleasant Plains, as the same appears of record in the county records of the surveyor's office of the District of Columbia.

2. That said lots are less than 200 feet distant from Eleventh Street extension, on the east side thereof, and are therefore within the area assessable or taxable for so-called benefits for and on account of the opening of said Eleventh street under and by virtue solely of the instructions to the jury in this proceeding of the Honorable A. B. Hagner, a justice of this court; to which instructions he hereby takes exceptions, as follows:

3. Respondent excepts to the first of said instructions, for that thereby the said jury is instructed, in substance and effect, that they should assess at least one-half the damages found due and awarded in respect of the land condemned in this proceeding *against the pieces or parcels of ground situate and lying along the building lines on* each side of Eleventh street extended and running back from said building lines to a depth of two hundred feet.

4. And respondent further excepts to the first of said instructions, for that the same is contrary to the statute for this case made and provided, to wit, sec. 3 of the act of Congress entitled "An act to extend S street, in the District of Columbia, and for other purposes," approved March 3, 1899.

9 5. And for a more explicit ground of his said exceptions respondent says that his aforesaid lots are not among "those pieces or parcels of ground abutting that portion of the said street to be opened," but lie many feet distant therefrom, and are abutting another and different street, to wit, Bismarck street, and the same are not therefore liable by virtue of said act of Congress to be assessed in respect of the damages to the land condemned for the extension of said Eleventh street.

And your respondent prays that he may have all the benefit of his said exceptions in this proceeding, and that he may have such other and further relief in the premises as the nature of the case may require.

CHARLES S. BUNDY, *P. P.*

Objections to Any Assessments of Lots 9 *and* 11.

Filed December 16, 1899.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re THE EXTENSION OF ELEVENTH STREET N. W.

1. Now comes the respondent, Charles S. Bundy, in his own proper person, and says that he is the owner of lots No. 9 and 11, in block No. 12, in Todd & Brown's sub. of Mount Pleasant and Pleasant Plains, as the same appears of record in the county records of the surveyor's office of the District of Columbia.

2. That said lots have each a frontage of 50 ft. on Bismarck street—south side thereof—and are less than 200 feet distant from Eleventh street extended and on the east side thereof, and are therefore within the area assessable or taxable for so-called benefits for the opening of said Eleventh street, whereas the extension of said street as proposed will in no way benefit either of said lots, and is liable to materially depreciate the value of lot 9 aforesaid.

3. That the jury should take into consideration the situation of said lots and should make no assessments thereon for the reason that they will receive no benefits from the opening of said Eleventh street.

4. That there is already pending in this court, to wit, cause No. 555, entitled "*In re* the extension of Sherman avenue," wherein this respondent is also a defendant, and wherein it is proposed, under color of law, to assess upon the same lots, No. 9 and 11, in block 12, aforesaid, so-called benefits for the widening of Sherman avenue, and therefore to also assess said lots in this cause for so-called benefits for the extension of Eleventh street will be a double assessment and for which this respondent receives no consideration.

5. That the extension of Eleventh street gives no additional easement to either of said lots, they already having full and convenient access to and from the city of Washington by way of Sherman avenue aforesaid, and the extension of Eleventh street will in no way give them a better easement or access than that which they now enjoy.

6. That the laying of two assessments upon the aforesaid lots to pay for damages for property taken for the extension of Eleventh street and for the widening of Sherman avenue, and claiming that such assessments are for the benefit of such lots, is excessive taxation and *are* indirect taking of private property for public use without compensation to the respondent.

CHARLES S. BUNDY, *P. P.*

Instructions to Jury by Justice Hagner.

Filed January 10, 1900.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET. No. 556.

The jury are instructed that in estimating the damage done to the owner of land through which said Eleventh street will pass by reason of the extension and opening of same they are not confined to the value of the land covered or actually taken by such street, but should allow such owner a reasonable amount for the direct damage done to the remaining part of such piece or parcel of land.

Therefore, if they find, by reason of the extension and opening of said Eleventh street, it will be necessary to make deep cuts through such property, leaving the adjoining parts of the same land high above the contemplated grade of said street, which in their opinion will be of great damage and injury to such adjoining land or to any buildings thereon, unless sufficiently protected, then in estimating the damages to be awarded they should take into consideration the condition in which the remaining part of the land is left by reason of the extension and opening of said street, and also the cost of protecting such part of the land adjoining such cut and the buildings thereon, if any, and make an allowance accordingly.

The above instruction is given.

A. B. HAGNER.

10 July, 1900.

Commissioners except.

Filed January 10, 1900.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET.

Exception by D. C.

Refused.

11

The jury are further instructed by the court—

That in estimating the value of land taken for the extension of Eleventh street, the jury are to make no allowance for damages which may result from any change of the grade when the street may hereafter be actually opened by the authorities.

The Commissioners except.

The jury are not at liberty, in establishing the damages to be allowed for land taken for the extension of Eleventh street, to allow as part of such damages any sum of money as and for the cost of a retaining wall to support the land abutting said street, although

Granted. such retaining wall may, in their judgment, become necessary because of a change of grade of the land in the line of the proposed street which may be made when the authorities actually open said street.

In estimating the value of any house or other improvements which may be taken for the extension of Eleventh street, the jury are instructed to allow the present value of such build-

Granted. ings or improvements, in their present condition, and not such sum of money, which may, in their opinion, be necessary to enable the owner thereof to reproduce such house or other improvement, in the same place or elsewhere, at the time of taking or at any time thereafter.

The jury are instructed that the measure of damages for any injuries to any piece or parcel of land, part whereof is

Exception by D. C. taken for the extension of Eleventh street, is the depreciation of the market value of the remaining portion of such lot or parcel of land caused by such

Refused. injuries, and such injuries must be susceptible of proof and capable of approximate measurement; they cannot be merely speculative or contingent.

The Commissioners, by counsel, except.

(Passing of title.)

Memorandum.

February 20, 1900.—Verdict of jury of seven filed.

Exception of Charles M. Carter to Assessment on Lot 14, *Bl.* 22.

Filed March 5, 1900.

In the Supreme Court of the District of Columbia.

In re Extension of Eleventh Street N. W. No. 556, District Docket.

The respondent, Charles M. Carter, by his attorney, Glen W. Cooper, hereby excepts to the verdict of the jury which assessed part — lot 14, in block No. 22, Todd and Brown's subdivision of part of Pleasant Plains, in the sum of $788 for so-called benefits to said lot from the prospective future opening of 11th street N. W., and objects to the confirmation of said assessment.

GLEN W. COOPER,
Attorney for Charles M. Cooper.

March 5, 1900.

12 *Order Nisi.*

Filed March 19, 1900.

In the Supreme Court of the District of Columbia, Holding a District Court for said District.

In re THE EXTENSION OF ELEVENTH STREET NORTHWEST. No. 556.

It appearing to the court that on the sixteenth day of February, A. D. 1900, there was filed herein the verdict and award of the jury summoned by the marshal under the order heretofore passed herein to ascertain and award the damages which each owner of land may sustain for and in respect of the land condemned and taken for the extension of Eleventh street northwest on a straight extension of the lines thereof, as now established in the city of Washington, with a width of ninety feet, from Florida avenue to Harvard street, and thence with the same width and in a straight line to Lydecker avenue, joining said avenue with its center line opposite the center line of Eslin avenue, as shown on the plat or map filed herein with the petition of the Commissioners of the District of Columbia; and to assess one-half of the amount found due and awarded as damages for and in respect of the land condemned for the extension of said Eleventh street, against those pieces or parcels of ground abutting that portion of the street to be opened, and extending to a depth of two hundred feet from the building lines of said Eleventh street as extended; and that in and by said verdict said jury has found due and awarded as and for damages for and in respect of the land condemned herein, shown on the aforesaid plat or map, as follows: The following parts of lots in block 47 of Holmead manor, included within the lines of Eleventh street extended, viz: Part of lot 6, five thousand nine hundred and thirty-five ($5,935) dollars. Part of lot 7, one thousand three hundred and eighty-four ($1,384) dollars. Part of lot 19, two thousand seven hundred and sixty ($2,760) dollars. Part of lot 20, five thousand two hundred and forty ($5,240) dollars. Part of lot 21, one thousand six hundred and thirty-six ($1,636) dollars; and damage to house on said lot, four thousand ($4,000) dollars. Part of sublot 39, three hundred and forty-six ($346) dollars; and damage to house on said lot, three thousand ($3,000) dollars. Part of sublot 40, one thousand three hundred and fifty-five ($1,355) dollars; and damage to house on said lot, seven thousand eight hundred ($7,800) dollars. Part of sublot 41, one thousand eight hundred and eighty-five ($1,885) dollars; and damage for house on said lot, seven thousand eight hundred ($7,800) dollars. The following parts of lots in block 20 of Columbia Heights subdivision, included within the lines of Eleventh street extended, viz: Part of lot 3, three thousand five hundred and twenty-one ($3,521) dollars. Part of lot 4, five thousand two hundred and nineteen ($5,219) dollars. Part of lot 5, nine hundred and thirty-six
13 ($936) dollars. Part of lot 15, eight hundred and eighty-nine ($889) dollars; and damage to stable on said lot, three

hundred ($300) dollars. Part of lot 16, five thousand eight hundred and fifty-four ($5,854) dollars. Part of lot 17, four thousand five hundred and sixty-three ($4,563) dollars. Part of lot 18, eighty-five ($85) dollars. The following parts of lots in block 21 of Columbia Heights subdivision, included within the lines of Eleventh street extended, viz: Part of lot 1, four thousand nine hundred and thirty-two ($4,932) dollars. Part of lot 2, one ($1) dollar. Part of lot 17, one thousand three hundred and thirty-seven ($1,337) dollars. All of lot 18, four thousand two hundred and ninety-seven ($4,297) dollars. Part of sublot 22, two thousand two hundred and thirty-seven ($2,237) dollars. The following parts of lots in block 23 of Columbia Heights subdivision, included within the lines of Eleventh street extended, viz: Part of lot 5, four thousand nine hundred and fifty-four ($4,954) dollars. Part of sublot 17, seven hundred and forty-one ($741) dollars. Part of sublot 20, one thousand four hundred and thirty-seven ($1,437) dollars. Part of sublot 21, two hundred and eleven ($211) dollars; and damage to house on said lot, six hundred ($600) dollars. The following parts of lots in block 24 of Columbia Heights subdivision, included within the lines of Eleventh street extended, viz: Part of lot 29, one thousand and ninety-nine ($1,099) dollars. Part of lot 30, one thousand two hundred and fifty-three ($1,253) dollars. The following parts of lots in block 25 of Columbia Heights subdivision, included within the lines of Eleventh street extended, viz: Part of lot 1, two thousand six hundred and forty-six ($2,646) dollars. Part of lot 26, one thousand six hundred and twenty-six ($1,626) dollars. The following parts of lots in block 26 of Columbia Heights subdivision, included within the lines of Eleventh street extended, viz: Part of lot 1, three thousand two hundred and seventy-eight ($3,278) dollars. Part of lot 25, two thousand seven hundred and nine ($2,709) dollars. The following parts of lots in block 27 of Columbia Heights subdivision, included within the lines of Eleventh street extended, viz: Part of lot 1, five thousand seven hundred and twenty-six ($5,726) dollars; grade damages, two thousand five hundred ($2,500) dollars. Part of lot 30, five thousand and thirty ($5,030) dollars; grade damages, one thousand four hundred and sixty-nine ($1,469) dollars. The following parts of lots in block 28 of Columbia Heights subdivision, included within the lines of Eleventh street extended, viz: Part of lot 1, ten thousand nine hundred and sixty ($10,960) dollars; grade damages, six thousand three hundred ($6,300) dollars. Part of lot 16, eight thousand three hundred and seventy-four ($8,374) dollars; grade damages, six thousand three hundred ($6,300) dollars. The following lots and parts of lots in Todd and Brown's subdivision, included within the lines of Eleventh street extended, viz: Part of lot 6, block 11, eight hundred and fifty-two ($852) dollars. All of lot 7, block 11, four thousand two hundred and fifteen ($4,215) dollars; and damage for house on said lot, three thousand ($3,000) dollars. Part of lot 6, block 12, five thousand five hundred and forty-seven ($5,547)
14 dollars. Part of lot 7, block 12, five thousand two hundred and eight ($5,208) dollars. Part of lot 8, block 12, two hundred and twenty-nine ($229) dollars. Part of lot 5, block 13, two

thousand four hundred and fifty-three ($2,453) dollars. All of lot 6, block 13, three thousand nine hundred and nineteen ($3,919) dollars. Part of lot 7, block 13, five thousand one hundred and sixty-one ($5,161) dollars. Part of lot 8, block 13, four ($4) dollars. Part of lot 4, block 14, one thousand two hundred and eighty-two ($1,282) dollars. All of lot 5, block 14, four thousand two hundred and fifty-two ($4,252) dollars. All of lot 6, block 14, three thousand two hundred and five ($3,205) dollars. Part of lot 7, block 14, two thousand eight hundred and fifty-two ($2,852) dollars. Part of lot 4, block 15, five thousand six hundred and four ($5,604) dollars. Part of lot 5, block 15, two thousand eight hundred and thirty-seven ($2,837) dollars. Part of lot 4, block 16, one thousand three hundred and twenty ($1,320) dollars. Part of lot 5, block 16, eight thousand and ninety-two ($8,092) dollars. Part of lot 6, block 16, five thousand one hundred and ninety-five ($5,195) dollars. Part of lot 11, block 16, two hundred and sixty-six ($266) dollars. Part of lot 5, block 17, three thousand nine hundred and eleven ($3,911) dollars. Part of lot 6, block 17, five thousand two hundred and twenty ($5,220) dollars. Part of lot 7, block 17, three hundred and forty-two ($342) dollars. Part of lot 9, block 17, one thousand two hundred and fifty-two ($1,252) dollars. Part of west half of lot 11, block 17, two thousand one hundred and seventy-nine ($2,179) dollars; and damage for houses on said lot, two thousand two hundred ($2,200) dollars. Part of east half of lot 11, block 17, one hundred and eighty-nine ($189) dollars. All of sublot 20, block 17, one thousand four hundred and twenty ($1,420) dollars. All of sublot 21, block 17, one thousand four hundred and twenty ($1,420) dollars. All of sublot 22, block 17, one thousand four hundred and twenty ($1,420) dollars. Part of lot 5, block 18, four thousand ($4,000) dollars. The unsubdivided tract bounded by Florida avenue, Todd and Brown's subdivision, Columbia Heights subdivision and the east line of Eleventh street extended, twenty-two thousand two hundred and seventy ($22,270) dollars; damage to frame house, one thousand five hundred ($1,500) dollars; damage from grading, damage to brick residence, etc., eleven thousand seven hundred and seventy-nine ($11,779) dollars. And that in and by said verdict said jury has assessed one-half of the aforesaid amount found due and awarded as and for damages against the following pieces or parcels of land shown on the plat or map annexed to the petition in this cause, as follows: Against the following pieces or parcels of land contained in block 47, Holmead manor, viz: Part of lot 6, described as follows: Beginning at the northwest corner of said lot thence north 66° 15′ east 6.2 feet; thence south 10° 38′ east to the east line of lot 7, thence 26.43 feet to beginning, Eugene Byrnes, owner, one ($1) dollar. All of lot 2, Edward P. Goodrich, owner, three hundred and nineteen ($319) dollars. East half by its depth of lot 3, Mary C. Mattingly, owner, one hundred and sixty-three dollars ($163). West half of lot
15 3, Joseph H. Sweney, owner, three hundred and twenty-five ($325) dollars. Lot 4, John C. Walker, owner, nine hundred ($900) dollars. Part of lot 7, described as follows: Beginning at the northeast corner of said lot and — south 23° 45′ east 26.43 feet,

thence south 10° 38′ east to Whitney Ave., thence south 66° 15′ west 22 feet, thence northwest along westerly line of lot 7 150 feet, thence to beginning, James H. Ellsworth, owner, one thousand and sixteen ($1,016) dollars. Lot 8, east half by its depth, Herbert W. Porter, owner, five hundred ($500) dollars. West half of lot 8 by its depth, John G. Muir, owner, four hundred ($400) dollars. Lot 9, Wm. Holmead and W. H. Saunders, owners, seven hundred and fifty ($750) dollars. Lot 10, Wm. Holmead and W. H. Saunders, owners, five hundred and twenty-five ($525) dollars. Part of lot 11, described as follows: Beginning at the southeast corner of said lot, thence 23° 45′ west 144.6 feet, thence south 10° 38′ east to Whitney Ave., thence north 66° 15′ east 33.38 feet to the beginning, Wm. Holmead and W. H. Saunders, owners, ninety-seven ($97) dollars. Part of lot 15, described as follows: Beginning at the southeast corner of said lot, thence south 66° 15′ west 49.15 feet, thence north 10° 38′ west to Lydecker Ave., thence north 66° 15′ east 14.16 feet, thence to beginning, Wm. Holmead and W. H. Saunders, owners, one hundred and ninety ($190) dollars. Lot 16, Wm. Holmead and W. H. Saunders, owners, five hundred and twenty-five ($525) dollars. Lot 17, John T. Lenman, owner, seven hundred and fifty ($750) dollars. Lot 18, John T. Lenman owner, nine hundred ($900) dollars. Part of lot 19, described as follows: Beginning at the northwest corner of said lot, thence southeast along its west line 150 feet, thence north 66° 15′ east 4.2 feet, thence north 10° 38′ west to Lydecker Ave., thence south 66° 15′ west 41.22 feet, G. F. Stone and A. Grant, trustees, four hundred and twenty-seven ($427) dollars. Part of lot 21, described as follows: Beginning at the southwest corner of said lot, thence along south and east lines to Lydecker Ave., thence south 66° 15′ west 16.42 feet, thence south 10° 38′ east to west line of said lot, thence to beginning, Fannie E. Pate, owner, six hundred and twenty ($620) dollars. Lot 22, Chas. E. Foster, owner, seven hundred and eighty-eight dollars ($788). Lot 23, Chas. C. Bryan, owner, four hundred and eighty-six ($486) dollars. Lot 24, J. Rudden and J. Connor, trustees, fifty-five ($55) dollars. Sublot 25, J. Rudden and J. Connor, trustees, sixty-one ($61) dollars. Sublot 26, J. Rudden and J. Connor, trustees, eighty-three ($83) dollars. Sublot 27, J. Rudden and J. Connor, trustees, fifty-three ($53) dollars. Sublot 28, J. Rudden and J. Connor, trustees, eight ($8) dollars. Part of sublot 37, described as follows: Beginning at the northwest corner of said lot, thence south 23° 45′ east 84 feet, thence north 10° 38′ west to alley, thence to beginning, J. Rudden and J. Connor, trustees, twenty-four ($24) dollars. Sublot 38, J. Rudden and J. Connor, trustees, seventy-six ($76) dollars. Part of sublot 39, described as follows: Beginning at the southwest corner of said lot, thence north 66° 15′ east 16.67 feet, thence north 23° 45′ west to alley, thence 66° 15′ southwest 4.39 feet, thence south 10° 38′ east to west side of lot, thence to beginning, V. Anderson and L. H.
16 Meyers, owners, two hundred and ninety ($290) dollars. Part of sublot 40, described as follows: Beginning at the southwest corner, thence north 23° 45′ west 9.54 feet, thence north 10° 38′ west to east line of lot, thence south 23° 45′ east to Lydecker Ave.,

thence to beginning, V. Anderson and J. H. Meyers, owners, one hundred and one ($101) dollars. Part of sublot 41, described as follows: Beginning at the southeast corner, thence north 23° 45′ west 9.54 feet, thence south 10° 38′ east to Lydecker Ave., thence to beginning, V. Anderson and J. H. Meyers, owners, two ($2) dollars. Against the following pieces or parcels of land contained in block 20, Columbia Heights subdivision, viz: All of lot 2, Edgar C. Kellogg, owner, eight hundred and ninety-one ($891) dollars. Part of lot 3, described as follows: Beginning at the southeast corner, thence west 10.78 feet, thence north 10° 38′ west to rear of lot, thence northeast along rear of lot 36.44 feet, thence south along east side of lot to beginning, Abner Greenleaf, owner, one hundred and ninety-four ($194) dollars. Part of lot 4, described as follows: Beginning at the southwest corner, thence north 40.43 feet, thence south 10° 38′ east to Dartmouth street, thence west 7.64 feet to beginning, Wm. B. Fellows, owner, one ($1) dollar. Part of lot 5, described as follows: Beginning at the southeast corner of said lot, thence north 40.43 feet, thence north 10° 38′ west to rear of lot, thence southwest along rear of lot to its west line, thence south to Dartmouth street, thence east 50 feet to the beginning, Azilit N. Blanchard, owner, eight hundred and twelve ($812) dollars. All of lot 6, Angeline C. Brainard, owner, seven hundred and eighty ($780) dollars. All of lot 7, Freeman H. Matt, owner, five hundred and thirty-seven ($537) dollars. All of lot 8, Barrows W. King, owner, two hundred and one ($201) dollars. Part of lot 9, described as follows: Beginning at the northeast corner, thence south 108 feet, thence north 10° 38′ west to rear of lot, thence to beginning, J. Gibbons, archbishop, owner, thirty-two ($32) dollars. Part of lot 11, described as follows: Beginning at the southeast corner, thence north 23° 45′ west 87 feet, thence south 10° 38′ to rear of lot, thence to beginning, Theron Outwater, owner, twenty-eight ($28) dollars. All of lot 12, Chas. S. Elliott, owner, two hundred and sixty-two ($262) dollars. All of lot 13, Phillip Mauro, owner, five hundred and nine ($509) dollars. All of lot 14, W. C. Duvall, owner, seven hundred and eighty ($780) dollars. Part of lot 15, described as follows: Beginning at the northeast corner of said lot, thence south 23° 45′ east 64.76 feet, thence south 10° 38′ east to south line of lot, thence westwardly along south line of lot to its west side, thence north 23° 45′ west 161.29 feet, thence north 66° 15′ east 50 feet to the beginning, Rosa E. Gerhold, owner, one thousand and fifty-eight ($1,058) dollars. Part of lot 16, described as follows: Beginning at the northwest corner of said lot, thence south 23° 45′ east 32.27 feet, thence north 10° 38′ west to Lydecker Ave., thence to beginning, Edwin S. Holmes, owner, seventy-three dollars ($73). Part of lot 17, described as follows: Beginning at the southeast corner of said lot, thence north 23° 45′ west 160.57 feet, thence south 10° 38′ east to south line of lot, thence direct to beginning, J. G. A. Kullander and
17 L. L. Hollanday, owners, two hundred and twenty-nine ($229) dollars. All of lot 18, John F. Waggaman, owner, one thousand two hundred and twenty-three ($1,223) dollars. All of lot 19, John W. Paine, owner, seven hundred and eighty-two ($782) dollars.

All of lot 20, J. B. Williamson, Jr., owner, five hundred and seventy-six ($576) dollars. Part of lot 21, described as follows: Beginning at the northeast corner, thence 23° 45′ — 55.45′, thence south 10° 38′ east to south line of lot, thence southwestwardly along south line 10.7 feet, thence north 23° 45′ west 224.38 feet, thence 66° 15′ east 50 feet to beginning, Mary F. Ford, Jr., owner, two hundred and thirty-seven (237) dollars. Part of lot 22, described as follows: Beginning at the northwest corner of said lot, thence south 23° 45′ east 55.45 feet, thence north 10° 38′ west to Whitney Ave., thence south 66° 15′ west 12.92 feet, John J. Albright, owner, eleven ($11) dollars. Against sublot 23, block 20, Columbia Heights subdivision, according to re-subdivision by E. C. Kellogg, Edgar C. Kellogg, owner, two ($2) dollars. Against lot 24 of Edgar C. Kellogg's subdivision of block 20, Columbia Heights, and block 19 of Mt. Pleasant and Pleasant Plains, Edgar C. Kellogg, owner, twenty-five ($25) dollars. Against lot 25 of Edgar C. Kellogg's subdivision of part of block 20, Columbia Heights, block 19, Mt. Pleasant and Pleasant Plains, Edgar C. Kellogg, owner, forty-five ($45) dollars. Against lot 26 of Edgar C. Kellogg's subdivision of block 20, Columbia Heights, and block 19, Mt. Pleasant and Pleasant Plains, E. C. Kellogg, owner, forty-six ($46) dollars. Against the following lots contained in Edgar C. Kellogg's subdivision of parts of block 20, Columbia Heights, and block 19, Mt. Pleasant and Pleasant Plains, viz: Lot 27, E. C. Kellogg, owner, forty-seven ($47) dollars. Lot 28, E. C. Kellogg, owner, forty-seven ($47) dollars. Lot 29, E. C. Kellogg, owner, forty-eight ($48) dollars. Lot 30, E. C. Kellogg, owner, forty-eight ($48) dollars. Lot 31, E. C. Kellogg, owner, forty-eight ($48) dollars. Lot 32, E. C. Kellogg, owner, ninety-four ($94) dollars. Against the following lots and parts of lots contained in block 21, Columbia Heights subdivision, viz: Part of lot 1, described as follows: Beginning at the southwest corner of said lot, thence north 146 feet, thence south 10° 38′ east to Kenyon street, thence west to beginning, Sarah P. Grogan, owner, one hundred and eighty ($180) dollars. Lot 2, Joseph H. Sweney, owner, seven hundred and three ($703) dollars. All of lot 3, Chas. Newell, —, six hundred and twenty-five ($625) dollars. Lot 4, Chas. Newell, owner, four hundred and sixty-nine ($469) dollars. Part of lot 5, described as follows: Beginning at the southeast corner of said lot, thence west 24.75 feet, thence north 10° 38′ west to west line of lot, thence by the west, north, and east line of said lot to place of beginning, Eliza R. Cooper, owner, one hundred and eighty-five ($185) dollars. Part of lot 6, described as follows: Beginning at the northeast corner of said lot, thence west 4.46 feet, thence south 10° 38′ east to east line of lot, thence to beginning, Eliza R. Cooper, owner, two ($2) dollars. Part of lot 13, described as follows: Beginning at the southeast corner of said lot, thence west
4.46 feet, thence north 10° 38′ west to Dartmouth street, thence
18 east 33.97 feet, thence to beginning, Orville J. Moat, owner
ninety ($90) dollars. All of lot 14, L. C. F. Hugo, owner, four hundred and sixty-nine ($469) dollars. All of lot 15, Mellen C. Hooker, owner, six hundred and twenty-five ($625) dollars. All of lot 16, Edwin V. Lane, owner, seven hundred and three ($703)

dollars. Part of lot 17, described as follows: Beginning at the northwest corner of said lot, thence east 19.7 feet, thence south 10° 38′ east to south line of lot, thence along south line to west line, thence to beginning, F. B. Brock, owner, six hundred and forty-six ($646) dollars. Part of sublot 22, described as follows: Beginning on the south side of Dartmouth street at 511.25 feet from 13th street, thence south 10° 38′ east to south line of sublot 22, thence east to east line, thence along east line to Dartmouth street, thence west 28 feet to beginning, Chas. A. Corey, owner, two hundred and fifty-one ($251) dollars. Against the following lots contained in block 21, Columbia Heights subdivision, and of block 18, Todd and Brown's subdivision, being a resubdivision by L. S. Lipscomb of lot 6, block 21, Columbia Heights, lot 19, block 18, Todd and Brown's subdivision, viz: Lot 20, Frederick M. Price, owner, three hundred and forty-nine ($349) dollars. Lot 21, Frederick M. Price, owner, four hundred and nineteen ($419) dollars. Against the following lots and parts of lots contained in block 22, Columbia Heights subdivision, viz: Part of lot 1, described as follows: Beginning at the southeast corner of said lot, thence west 35.7 feet, thence north 10° 38′ west to north line of said lot, thence east 110.85 feet, thence to beginning, Alfred L. White, owner, three hundred and forty-four ($344) dollars. Part of lot 11, described as follows: Beginning at the northeast corner of said lot, thence west 12.82 feet, thence south 10° 38′ east to east line of lot, thence to beginning, John W. Morris, owner, thirteen ($13) dollars. Part of lot 12, described as follows: Beginning at the northwest corner of said lot, thence south 67.6 feet, thence south 10° 38′ east to south line of lot, thence east 33.21 feet, thence north 156.26 feet, thence west 50 feet to beginning, District of Columbia, owner, four hundred and ninety-five ($495) dollars. All of lot 13, District of Columbia, owner, six hundred and twenty-five ($625) dollars. All of lot 14, Chas. M. Carter, owner, seven hundred and eighty-eight ($788) dollars. Against the following sublots and parts of lots contained in block 23, Columbia Heights subdivision, viz: Part of lot 4, described as follows: Beginning at the northeast corner of said lot, thence south 218.58 feet, thence west 44.64 feet, thence north 10° 38′ west to north line of lot, thence to the beginning, W. P. Kellogg and F. Cotton, owners, one hundred and forty-four ($144) dollars. Part of lot 5, described as follows: Beginning at the northwest corner of said lot, thence south 218.58 feet, thence east 158.9 feet, thence north 10° 38′ west to north line of lot, thence direct to beginning, W. P. Kellogg and F. Cotton, owners, four thousand four hundred and eighty-nine ($4,489) dollars. Part of lot 17, described as follows: Beginning at the northwest corner of said lot, thence east 101 feet, thence south 10° 38′ — to south line of lot, thence by south and west lines of said lot to the beginning, Emily D. Berry, owner, seven hundred and
19 ninety-two ($792) dollars. Part of sublot 20, described as follows: Beginning at the southwest corner of said lot, thence east 8.54 feet, thence north 10° 38′ west to west line of said lot, thence direct to beginning, Phebe E. Sharpless, owner, one ($1) dollar. Part of sublot 21, described as follows: Beginning at the northwest corner

of said lot, thence east 13.23 feet, thence south 10° 38′ east to east line of said lot, thence south 45.42 feet, thence west 24.28 feet, thence north to beginning, Phebe E. Sharpless, owner, three hundred and twenty-seven ($327) dollars. Sublot 22, Phebe E. Sharpless, owner, three hundred and one ($301) dollars. Sublot 23, Phebe E. Sharpless, owner, two hundred and fifty-one ($251) dollars. Sublot 24, Phebe E. Sharpless, owner, two hundred and fifty-one ($251) dollars. Sublot 25, Phebe E. Sharpless, owner, two hundred and fifty-one ($251) dollars. Sublot 26, Phebe E. Sharpless, owner, one hundred and ninety-three ($193) dollars. Sublot 27, Phebe E. Sharpless, owner, one hundred and fifty-four ($154) dollars. Sublot 28, Phebe E. Sharpless, owner, one hundred and sixteen ($116) dollars. Part of sublot 29, described as follows: Beginning at the northeast corner of said lot, thence west 25 feet, thence south 13.7 feet, thence south 10° 38′ east to east line of said lot, thence north to beginning, Phebe E. Sharpless, owner, sixty ($60) dollars. Part of sublot 30, described as follows: Beginning at the northeast corner of said lot, thence west 2.58 feet, thence south 10° 38′ east to east line of lot, thence to beginning, Phebe E. Sharpless, owner, one ($1) dollar. Against the following lots and parts of lots contained in block 24, Columbia Heights subdivision, viz: All of lot 2 John B. Lybrook, owner, three hundred and seventy-five ($375) dollars; of lot 3, the east 14.4 feet by its depth, Alfred L. White, owner, eighty-six ($86) dollars. The east 14.4 feet by its depth of lot 20, M. M. Parker and P. Pulsifer, trustees, eighty-seven ($87) dollars. All of lot 21, M. M. Parker and P. Pulsifer, trustees, three hundred and seventy-eight ($378) dollars. Sublot 27, M. M. Parker and P. Pulsifer, trustees, seven hundred and forty-one ($741) dollars. Sublot 28, M. M. Parker and P. Pulsifer, trustees, eight hundred and ninety ($890) dollars. The west 37.56 feet by its depth of sublot 29, M. M. Parker and P. Pulsifer, trustees, eight hundred and fifty-two ($852) dollars. The west 82.9 feet by its depth of sublot 30, M. M. Parker and P. Pulsifer, trustees, seven hundred and forty ($740) dollars. Sublot 31, M. M. Parker and P. Pulsifer, trustees, nine hundred and twenty-four ($924) dollars. Sublot 32, M. M. Parker and P. Pulsifer, trustees, seven hundred and seventy ($770) dollars. Against the following lots and parts of lots contained in block 25, Columbia Heights subdivision, viz: The west 35.6 feet by its depth of lot 1, William Lampson, owner, eight hundred and four ($804) dollars. All of lot 2, Samuel C. Lovejoy, owner, nine hundred and four ($904) dollars. All of lot 4, Sallie N. Mackenzie, three hundred and one ($301) dollars. The east 14.40 feet by its depth of lot 5, Henrietta A. Pixton, owner, sixty-five ($65) dollars. The east 14.4 feet by its depth of lot 22, Henry F. Samstag, owner, sixty-five ($65) dollars. All of lot 23, Melita C. Spelhouse, owner, three hundred and one ($301) dollars. All of lot
20 24, Isaac W. Nordlinger, owner, four hundred and fifty-two ($452) dollars. All of lot 25, Isiah L. Blout, owner, seven hundred and fifty-three ($753) dollars. The west 35.6 feet by its depth of lot 26, Henry F. Samstag, owner, six hundred and forty-three ($643) dollars. Sublot 34, Leo J. Rosenthal, owner, one hundred and forty-three ($143) dollars. Sublot 35, Leo J. Rosenthal, owner, one hun-

dred and forty-three ($143) dollars. Sublot 36, Leo J. Rosenthal, owner, one hundred and forty-three ($143) dollars. Against the following lots and parts of lots contained in block 26, Columbia Heights subdivision, viz: The west 35.6 feet by its depth of lot 1, Cora Behrend, owner, eight hundred and four ($804) dollars. All of lot 2, Cora Behrend, owner, one thousand one hundred and thirty ($1,130) dollars. All of lot 3, E. J. Jeffreys and T. R. Willey, owners, five hundred and twenty-seven ($527) dollars. All of lot 4, E. J. Jeffreys and T. R. Willey, owners, three hundred and seventy-seven ($377) dollars. The east 14.4 feet of lot 5 by its depth, Mary S. Logan, owner, eighty-seven ($87) dollars. The east 14.4 feet of lot 21 by its depth, Max Grief, owner, sixty-five ($65) dollars. All of lot 22, Cora Behrend, owner, three hundred and one ($301) dollars. All of lot 23, Felix S. Rosenthal, owner, four hundred and fifty-two ($452) dollars. All of lot 24, Abraham D. Prince, owner, nine hundred and four ($904) dollars. The west 35.6 feet of lot 25 by its depth, Max Luchs, owner, eight hundred and four ($804) dollars. Against the following lots and parts of lots contained in block 27, Columbia Heights subdivision, viz: The west 36.6 feet of lot 1 by its depth, John Sherman and A. M. Hoyt, owners, one thousand five hundred and seventeen ($1,517) dollars. All of lot 2, John Sherman and A. M. Hoyt, owners, two thousand one hundred and thirty ($2,130) dollars. All of lot 3, John Sherman and A. M. Hoyt, owners, one thousand eight hundred and eleven ($1,811) dollars. All of lot 4, John Sherman and A. M. Hoyt, owners, one thousand eight hundred and eleven ($1,811) dollars. The east 14.4 feet by its depth of lot 5, John Sherman and A. M. Hoyt, owners, five hundred and twenty-one ($521) dollars. The east 14.4 feet of lot 26 by its depth, John Sherman and A. M. Hoyt, owners, five hundred and twenty-one ($521) dollars. All of lot 27, John Sherman and A. M. Hoyt, owners, one thousand eight hundred and ten ($1,810) dollars. Lot 28, John Sherman and A. M. Hoyt, owners, one thousand eight hundred and ten ($1,810) dollars. All of lot 29, John Sherman and A. M. Hoyt, owners, two thousand one hundred and thirty ($2,130) dollars. The west 35.6 feet of lot 30 by its depth, John Sherman and A. M. Hoyt, owners, one thousand five hundred and seventeen ($1,517) dollars. Against the following lots and parts of lots contained in block 28, Columbia Heights subdivision, viz: The west 85.6 feet of lot 1, John Sherman and A. M. Hoyt, owners, four thousand six hundred and eighty-seven ($4,687) dollars. All of lot 2, John Sherman and A. M. Hoyt, owners, four thousand seven hundred and sixty-nine ($4,769) dollars. The east 14.4 feet of lot 3 by its depth, John Sherman and A. M. Hoyt, owners, six hundred and ninety-seven ($697) dollars. The east 14.4 feet of lot 14 by its depth,
21 John Sherman and A. M. Hoyt, owners, six hundred and fifty-seven ($657) dollars. All of lot 15, John Sherman and A. M. Hoyt, owners, four thousand five hundred and fifty-nine ($4,559) dollars. The west 85.6 feet of lot 16 by its depth, John Sherman and A. M. Hoyt, owners, four thousand five hundred and ninety-one ($4,591) dollars. Against the following pieces or parcels of ground contained in block 11 of Todd and Brown's subdivision,

viz: Part of lot 2, described as follows: Beginning at the northwest corner of said lot 2, thence north 83° and 23′ 18.84 east, thence south to the rear of said lot, thence south 83° 23′ west, to the east line of lot 3, thence west to the place of beginning, Rose Wallach and Jesse Brown, owners, thirty ($30) dollars. All of lot 3, Rose Wallach and Jesse Brown, owners, two hundred and forty-four ($244) dollars. All of lot 4, S. Dana Lincoln, owner, three hundred and nineteen ($319) dollars. All of lot 5, Julia D. Simmons, owner, four hundred and fifty ($450) dollars. Part of lot 6, beginning at the northeast corner of said lot, thence south 6° and 37′ east, 150 feet to the rear of said lot, thence south 83° and 23′ west 50 feet to the east line of 11th street extended, thence north along the east side of 11th street to the north line of lot 6, thence north 83° and 23′ east, 32.53 feet to the place of beginning, Julia D. Simmons, owner, six hundred and eighty-one ($681) dollars. Against the following lots and parts of lots contained in block 12 of Todd and Brown's subdivision, viz: Part of lot 2, beginning at the southwest corner of said lot, thence north 6° and 37′ west 150 feet to the rear of said lot, thence north 83° and 23′ east 43.31 feet, thence south to the south line of said lot, thence south 83° and 23′ west, 25.83 feet to the place of beginning, T. G. H. Todd, owner, one hundred and four ($104) dollars. All of lot 3, John W. Shaefer, owner, two hundred and forty-three ($243) dollars. All of lot 4, John W. Shaefer, owner, three hundred and eighteen ($318) dollars. All of lot 5, Rose Wallach and Jesse Brown, owners, four hundred and eighty-eight ($488) dollars. Part of lot 6, beginning at the southeast corner of said lot, thence south 83° and 23′ west, 25.54 feet to the east side of 11th street extended, thence with the east line of 11th street to the rear of said lot, thence north 83° 23′ east, 8.06 feet, thence south 6° and 37′ east, 150 feet to the beginning, S. Dana Lincoln, owner, two hundred and fifty-two ($252) dollars. Part of lot 7, beginning at the southeast corner of said lot, thence south 83° and 23′ west, 8.06 feet to the east line of 11th street extended, thence with said line to its intersection with the east line of lot 7, thence south 6° 37′ east, 69.08 feet to the place of beginning, Rose Wallach and Jesse Brown, owners, twenty-eight ($28) dollars. Part of lot 8, beginning at the southeast corner of said lot, thence 83° 23′ west, 50 feet, thence north 6° 37′ west to the east line of 11th street thence with said line to the north line of lot 8, thence north 83° 23′ east, 40.57 feet to the beginning, Rose Wallach and Jesse Brown, owners, six hundred and forty ($640) dollars. All of lot 9, Chas. S. Bundy, owner, three hundred and thirty-eight ($338) dollars. All of lot 10, Rob't F. Elliott, owner, two hundred and forty-three ($243) dollars. All of lot 11, Chas. S. Bundy,
22 owner, one hundred and forty-six ($146) dollars. Part of lot 12, beginning at the northwest corner of said lot, thence north 83° 23′ east, 10.8 feet, thence south to the south line of said lot, thence with said line 4.97 feet to the southwest corner of said lot, thence north 6° 37′ west 60 feet to the beginning, Geo. J. Mueller, owner, one ($1) dollar. Part of lot 13, beginning at the northwest corner of said lot, thence north 83° 23′ east 4.97 feet, thence south to intersection with the west line of said lot, thence north 6° 37′

west 42.65 feet to the beginning, Bettie Newman, owner, one ($1) dollar. Against the following lots and parts of lots contained in block 13 of Todd & Brown's subdivision, viz: Part of lot 1, beginning at the southwest corner of said lot; thence north 6° 37′ west 50 feet, thence north 83° 23′ east 23.61 feet, thence south to the south line of the said lot, thence south 83° 23′ west 17.78 feet to the place of beginning, S. Dana Lincoln, owner, one ($1) dollar. All of lot 2, Rob't P. Fletcher, owner, one hundred and fifty ($150) dollars. All of lot 3, S. Dana Lincoln, owner, two hundred and sixty-three ($263) dollars. All of lot 4, Rose Wallach and Jesse Brown, owners, three hundred and seventy-five ($375) dollars. Part of lot 5, beginning at the southeast corner of said lot, thence south 83° 23′ west 33.59 feet to the east line of 11th street extended, thence with said line to the rear of said lot, thence north 83° 23′ east 16.10 feet, thence south 6° 37′ east 150 feet to the beginning, Rose Wallach and Jesse Brown, owners, four hundred and ten ($410) dollars. Part of lot 7, beginning at the southeast corner of said lot, thence south 83° 23′ west 16.10 feet to the east line of 11th street extended, thence with said line to its intersection with the east line of said lot, thence south 6° 37′ east 138.15 feet to the place of beginning, Geo. S. Cooper, owner, one hundred and eleven ($111) dollars. All of lot 8, Rose Wallach and Jesse Brown, owners, six hundred and seventy-four ($674) dollars. All of lot 9, Andrew J. Miller, owner, two hundred and sixty-three ($263) dollars. All of lot 10, J. Lang and W. G. Gray, owners, one hundred and sixty-eight ($168) dollars. All of west 16 feet of lots 11 and 12, A. B. Prigg, owner, sixty (.60) cents. Part of 32 feet of lots 11 and 12, beginning on the north line of lot 11, 16 feet from the northwest corner of said lot, thence south 6° 37′ east 100 feet to the south line of lot 12, thence north 83° 23′ east 25.07 feet, thence north to intersect with the east side of said part of lots 11 and 12, thence north 6° 37′ west to the north line of lot 11, thence south 83° 23′ west 32 feet to the beginning, Nathan A. Poole, owner, one ($1) dollar. Part of 16 feet of lots 11 and 12, beginning at the north line of lot 11, 48 feet from the northwest corner of said lot, thence north 83 degrees 23 minutes east 4.75 feet, thence south to intersect with the west line of the said part of lots 11 and 12, thence north 6° 37′ west to the beginning, S. J. Cunningham, owner, forty (.40) cents. Part of lot 13, beginning at the northwest corner of said lot, thence north 83° 23′ east 41.07 feet, thence south to the south line of said lot, thence with said line 35.26 feet to the southwest corner of the said lot, thence north 6° 37′ west 50 feet to the beginning, Rose Wallach and Jesse Brown, owners, one ($1) dollar. Part of the north half
23 of lot 14, beginning at the northwest corner of the said part, thence north 83° 23′ east 35.26 feet, thence south to the south line of the said part, thence south 83° 23′ west 32.35 feet, thence north 6° 37′ west 25 feet to the beginning, F. A. Daley, owner, one ($1) dollar. Part of the south part of lot 14, beginning at the northwest corner of the said part, thence north 83° 23′ east 32.25 feet, thence south to the south line of the said part, thence south 83° 23′ west 29.14 feet, thence north 6° 37′ west 25 feet to the beginning, Isador A. Duchesne, owner, one ($1) dollar. Part of lot 15, beginning at

the northwest corner of the said lot, thence north 83° 23′ east 29.44 feet, thence south to the south line of the said lot, thence 83° 23′ west 23.61 feet, thence north 6° 37′ west 50 feet to the beginning, Rose Wallach and Jesse Brown, owners, one (81) dollar. Against the following lots and parts of lots in block 14, Todd & Brown's subdivision, viz: Part of lot 1, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 65.55 feet, thence south to the south line of said lot, thence south 83° 23′ west 59.73 feet to the beginning, S. Dana Lincoln, owner, one (81) dollar. All of lot 2, John B. Laybrook, owner, one hundred and fifty ($150) dollars. All of lot 3, S. Dana Lincoln, owner, three hundred ($300) dollars. Part of lot 4, beginning at the southeast corner of said lot, thence south 83° 23′ west 41.64 feet to the east line of 11th street extended, thence with said line to the rear of said lot, thence north 83° 23′ east 24.17 feet, thence south 6° 37′ east 150 feet, Rose Wallach and Jesse Brown, owners, five hundred and nineteen ($519) dollars. Part of lot 7, beginning at the southeast corner of said lot, thence south 83° 23′ west 24.17 feet to the east line of 11th street, thence with said line to the north line of said lot, thence north 83° 23′ east 6.70 feet, thence south 6° 37′ east 150 feet to the beginning, Rose Wallach and Jesse Brown, owners, two hundred and eight ($208) dollars. All of lot 8, Thos. H. G. Todd, owner, five hundred and twenty-five ($525) dollars. All of lot 9, Mary C. Sullivan, owner, two hundred and sixty-three ($263) dollars. Part of lot 10, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 94.67 feet, thence south to the south line of said lot, thence south 83° 23′ west 88.85 feet to the beginning, Rose Wallach and Jesse Brown, owners, one ($1) dollar. Part of lot 11, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 88.85 feet, thence south to the south line of said lot, thence south 83° 23′ west 83.02 feet to the place of beginning, Rose Wallach and Jesse Brown, owners, one ($1) dollar. Part of lot 12, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 83.02, thence south to the south line of the said lot, thence south 83° 23′ west 77.20 feet to the beginning, Sewell A. Reeves (owner of the north half), fifty (.50) cents; Nathan A. Poole (owner of the south half), fifty (.50) cents. Part of lot 13, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east
77.20 feet, thence south to the south line of said lot, thence
24 south 83° 23′ west 71.38 feet to the beginning, J. W. Morris, owner, one ($1) dollar. Part of lot 14, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 71.38 feet, thence south to the south line of the said lot, thence south 82° 23′ west 65.555 feet to the beginning, Nathan A. Poole, owner, one ($1) dollar. Against the following lots and parts of lots contained in block 15 of Todd & Brown's subdivision, viz: Part of lot 1, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 91.52 feet, thence south 10° 38′ east to the south line of the said lot, thence south 83° 23′ west 95.08 to the beginning, Rose Wallach and Jesse Brown,

owners, one ($1) dollar. All of lot 2, R. Bruce Bare, owner, two hundred and sixty-three ($263) dollars. All of lot 3, Jno. W. Morris, owner, six hundred and seventy-five ($675) dollars. Part of lot 4, beginning at the southeast corner of said lot, thence south 83° 23', west 5.44 feet to the east line of Eleventh street extended, thence north 10° 38' west with said line to the rear of lot 5, thence north 83° 23' east 16.13 feet, thence south 6° 37' east 150 feet to the beginning, Rose Wallach and Jesse Brown, owners, one hundred and sixty-two ($162) dollars. Part of lot 5, beginning at the southeast corner of said lot, thence south 83° 23' west 16.13 feet to east line of Eleventh street extended, thence with said line north 10° 38' west to the north line of said lot, thence north 83° 23' east 26.82 feet, thence south 6° 37' east 150 feet to the beginning, Annie M. Cocks, owner, three hundred and twenty-two ($322) dollars. All of lot 6, Rose Wallach and Jesse Brown, owners, six hundred and thirty-eight ($638) dollars. All of lot 7, S. Dana Lincoln, owner, two hundred and forty-three ($243) dollars. Part of lot 8, beginning at the southwest corner of said lot, thence north 6° 37' west 50 feet to the north line of the said lot, thence north 83° 23' east 73.70 feet, thence south 10° 38' east to the south line of the said lot, thence south 83° 23' west 77.26 feet to the beginning, Avarilla Lambert, owner, one ($1) dollar. Part of lot 9, beginning at the southwest corner of said lot, thence north 6° 37' west 50 feet, thence north 83° 23' east 77.26 feet, thence south 10° 38' east to the south line of said lot, thence south 83° 23' west 80.82 feet to the beginning, Nathan A. Poole, owner, one ($1) dollar. Part of lot 10, beginning at the southwest corner of the said lot, thence north 6° 37' west 50 feet, thence north 83° 23' east 80.82 feet, thence south 10° 38' east to the south line of the said lot, thence south 83° 23' west 84.39 feet to the beginning, Wm H. German, owner, one ($1) dollar. Part of lot 11, beginning at the southwest corner of the said lot, thence north 6° 37' west 50 feet, thence north 83° 23' east 84.39 feet, thence south 10° 38' east to the south line of the said lot, thence south 83° 23' west 87.96 feet to the place of beginning, S. D. Lincoln, owner, one ($1) dollar. Part of lot 12, beginning at the southwest corner of said lot, thence north 6° 37' west 50 feet, thence north 83° 23' east 87.96 feet, thence south 10° 38' east to the south line of the said lot, thence south 83° 23' west 91.52 feet to the beginning, Rose Wallach and Jesse Brown, owners, one ($1) dollar.

Against the following lots and parts of lots contained in block
25 16, Todd & Brown's subdivision, viz: Part of lot 1, beginning at the southwest corner of said lot, thence north 6° 37' west 50 feet, thence north 83° 23' east 65.89 feet, thence south 10° 38' east to the south side of said lot, thence south 83° 23' west 69.55 feet to the beginning, John Seibel, owner, one ($1) dollar. All of lot 2, Anna North, owner, three hundred ($300) dollars. All of lot 3, Anna North, owner, six hundred and thirty-eight ($638) dollars. Part of lot 4, beginning at the southeast corner of said lot, thence south 83° 23' west 30.97 feet to the east line of Eleventh street, thence north 10° 38' west with said line to the rear of said lot, thence north 83° 23' east 41.94 feet, thence south 6° 37' east 150 feet to the beginning, S. Dana Lincoln,

owner, three hundred and seventy-five ($375) dollars. Part of lot 6, beginning at the southwest corner of said lot, thence north 6° 37′ west 282.35 feet to the north line of said lot, thence north 83° 23′ east 6.85 feet to the west line of Eleventh street extended, thence with said line south 10° 38′ east to the rear of said lot, thence with the said rear line 28.28 feet to the place of beginning, Rose Wallach and Jesse Brown, owners, two hundred and forty-six ($246) dollars. All of lot 7, Avarilla Lambert, owner, one thousand three hundred and ninety-seven ($1,397) dollars. All of lot 8, Thos. B. Sanders, owner, nine hundred and forty-nine ($949) dollars. All of lot 9, Wm. M. Stuart, owner, six hundred and fifty-eight ($658) dollars. Part of lot 10, beginning at the northwest corner of said lot, thence north 83° 23′ east 37.94 feet, thence south 6° 37′ east 259.20 feet to the rear of said lot, thence with said rear line 25.61 feet, thence north 10° 38′ west to intersect with the west line of said lot, thence with said west line to the beginning, John W. Morris, owner, two hundred and sixty-three ($263) dollars. Part of lot 11, beginning at the southwest corner of the said lot, thence south 83° 23′ west 41.94 feet to the east line of 11th street, thence with said line north 10° 38′ west 110.09 feet to intersect with west line of said lot, thence north 6° 37′ west 39.91 feet, thence north 83° 23′ east 50 feet, thence south 6° 37′ east 150 feet to the beginning, S. Dana Lincoln, owner, seven hundred and forty-one ($741) dollars. All of lot 12, Rose Wallach and Jesse Brown, owners, four hundred and eighty-eight ($488) dollars. All of lot 13, Rose Wallach and Jesse Brown, owners, two hundred and forty-four ($244) dollars. Part of lot 14, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet to the north line of said lot, thence north 83° 23′ east 47.60 feet, thence south 10° 38′ east to the south line of said lot, thence south 83° 23′ west 51.26 feet to the beginning, Otto Gasch, owner, one ($1) dollar. Part of lot 15, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet to the north line of said lot, thench north 83° 23′ east 51.26 feet, thence south 10° 38′ east to the south line of said lot, thence south 83° 23′ west 54.91 feet to the beginning, Otto Gasch, owner, one ($1) dollar. Part of lot 16, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet to the north line of said lot, thence north 83° 23′ east 54.91 feet, thence south 10° 38′ east to the south line of said lot, thence south 83° 23′ west 58.56 feet to the beginning, Caroline Mytinger, owner, one ($1) dol-
26 lar. Part of lot 17, beginning at the southwest corner of the said lot, thence north 6° 37′ west 50 feet to the north line of said lot, thence north 83° 23′ east 58.56 feet, thence south 10° 38′ east to the south line of said lot, thence 83° 23′ west 62.23 feet to the beginning, Caroline Mytinger, owner, one ($1) dollar. Part of lot 18, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet to the north line of said lot, thence north 83° 23′ east 62.23 feet, thence south 10° 38′ east to the south line of said lot, thence south 83° 23′ west 65.89 feet to the beginning, S. Dana Lincoln, owner, one ($1) dollar. Part of lot 6, beginning at the northeast corner of said lot, thence south 6° 37′ east 39.91 feet to intersect the east line of 11th street extended, thence north 10° 38′ west with said line to the

north line of lot 5, thence north 83° 23′ east 2.92 feet to the beginning, S. Dana Lincoln, owner, six ($6) dollars. Against the following lots and parts of lots in block 17, of Todd and Brown's subdivision, viz: Part of lot 1, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet to the north line of said lot, thence north 83° 23′ east 40.45 feet, thence south 10° 38′ east to the south line of said lot, thence south 83° 23′ 44.10 feet to the beginning, Lorin M. Saunders, owner, one ($1) dollar. All of lot 2, Allen S. Johnson, owner, two hundred and forty-four ($244) dollars. All of lot 3, Edwin B. Olmstead, owner, four hundred and eighty-eight ($488) dollars. All of lot 4, Chas. E. Vreeland, owner, six hundred and thirty-eight ($638) dollars. Part of lot 5, beginning at the southeast corner, thence south 83° 23′ west 7.28 feet to the east line of Eleventh street extended, thence with said line north 10° 38′ west to north line of said lot, thence north 83° 23′ east 18.22 feet to east line of said lot, thence south 6° 37′ east 150 feet to the beginning, Rose Wallach and Jesse Brown, owners, one hundred and ninety-one ($191) dollars. Part of lot 6, beginning at the southwest corner of said lot, thence north 6° 37′ west 34.28 feet to intersection of west line of Eleventh street extended, thence south 10° 38′ east with said line of Eleventh street to south line of said lot, thence south 83° 23′ west 2.50 feet to the beginning, Rose Wallach and Jesse Brown, owners, four ($4) dollars. Part of lot 7, beginning at the southeast corner of said lot, thence south 83° 23′ west 50 feet to west line of said lot, thence with said line north 6° 37′ west 150 feet to north line of said lot, thence north 83° 23′ east to west line of Eleventh street extended, thence with said line south 10° 38′ east to intersection of east line of said lot, thence south 6° 37′ east 34.28 feet to the beginning, Rose Wallach and Jesse Brown, owners, one thousand and fifty-two ($1,052) dollars. All of lot 8, Edward H. Booth, owner, one hundred and thirteen ($113) dollars. Part of lot 9, beginning at the northwest corner of said lot, thence north 83° 23′ east 17.24 feet to west line of 11th street extended, thence with said line south 10° 38′ east to south line of said lot, thence south 83° 23′ west to west line of said lot, thence with said line 162.62 feet to the beginning, Rose Wallach and Jesse Brown, owners, one thousand two hundred and twenty ($1,220) dollars. Part of east half of lot 11, beginning at the southeast corner of said lot, thence south 83° 23′
27 west 18 feet to the east line of 11th street extended, thence with said line to intersect with the west line of the east half of said lot, thence north 6° 37′ west 57.04 feet, thence north 83° 23′ east 25 feet, thence south 6° 37′ east 150 feet to the beginning, John B. Ruffin, owner, three hundred and seventy-seven ($377) dollars. Part of the west half of lot 11, beginning at the northeast corner of said west half, thence south 6° 37′ east 57.04 feet, to intersect with the east line of 11th street extended, thence north 10° 38′ west to the north line of said lot, thence north 83° 23′ east 4.16 feet to the beginning, Douglas Edmunds, owner, twelve ($12) dollars. All of lot 12, Andrew J. Miller, owner, four hundred and eighty-eight ($488) dollars. All of lot 13, Andrew J. Miller, owner, four hundred and thirteen ($413) dollars. All of the west 16.67 feet of lot 14 by its

depth, Wm. W. Metcalf, owner, eighty-one ($81) dollars. All of the center 16.67 feet of lot 14 by its depth, Thos. R. Strothers, owner, eighty-one ($81) dollars. All of the east 16.67 feet of lot 14 by its depth, Chas. H. Ware, owner, eighty-two ($82) dollars. Part of lot 15, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 22.1 feet, thence south 10° 38′ — to the south line of said lot, thence south 83° 23′ west 25.86 feet to the beginning, Wolf Nordlinger, owner, one ($1) dollar. Part of lot 16, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 25.86 feet, thence south 10° 38′ east to the south line of said lot, thence south 83° 23′ west 29.51 feet to the beginning, Michael Faherty, owner, one ($1) dollar. Part of lot 17, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 29.51 feet, thence south 10° 38′ east to the south line of the said lot, thence south 83° 23′ west 33.16 feet to the beginning, Rose Wallach and Jesse Brown, — one ($1) dollar. Part of lot 18, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 33.16 feet, thence south 10° 38′ east to the south line of said lot, thence with said line 36.80 feet to the beginning, Rose Wallach and Jesse Brown, owners, one ($1) dollar. Part of the north 16.67 feet of lot 19, beginning at the northwest corner of said part, thence north 83° 23′ east 36.80 feet, thence south 10° 38′ east to the south line of said part, thence south 83° 23′ west 38.01 ft. to the beginning, John T. Thurston, owner, thirty-three ($0.33) cents. Part of the center 16.67 feet of lot 19, beginning at the southwest corner of said part, thence north 6° 37′ west 16.67 feet, thence north 83° 23′ east 38.01 feet, thence south 10° 38′ east to south line of said part, thence south 83° 23′ west 39.22 feet to the beginning, Chas. P. Scott, owner, thirty-three ($0.33) cents. Part of the south 16.67 feet of lot 19, beginning at the southwest corner of the said part, thence north 6° 37′ west, 16.67 feet, thence north 83° 23′ east 39.22 feet, thence south 10° 38′ east to the south line of the said lot, thence with said line 40.45 feet to the beginning, Thaddeus Fields, owner, thirty-four ($0.34) cents. All of lot 23, H. C. and A. G. Machette, one hundred and eighty-two ($182) dollars. All of lot 24, W. D. West and C. J. McCubbin, owners, one hundred and fifty-nine ($159) dollars.

28 All of lot 25, Geo. C. Johnson, owner, one hundred and thirty-six ($136) dollars. All of lot 26, W. D. S. Williamson, owner, one hundred and six ($106) dollars. Against the following lots and parts of lots contained in block 18 of Todd and Brown's subdivision, viz: Part of lot 1, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet, thence north 83° 23′ east 14.15 feet, thence south 10° 38′ east to the south line of said lot, thence with said line 17.81 feet to the beginning, Rose Wallach and Jesse Brown, owners, one ($1) dollar. All of lot 2, Alice J. Sorrells, owner, two hundred and forty-four ($244) dollars. All of lot 3, Alice J. Sorrells, owner, three hundred and thirty-eight ($338) dollars. All of lot 4, Rose Wallach and Jesse Brown, owners, four hundred and eighty-eight ($488) dollars. Part of lot 5, beginning at the southeast corner of said lot, thence south 83° 23′ west 33.57 feet to east line of 11th street ex-

tended, thence with said line north 10° 38′ west to north line of said lot, thence north 83° 23′ east, to east line of said lot, thence south 6° 37′ east 150 feet to the beginning, Rose Wallach and Jesse Brown, owners, seven hundred ($700) dollars. All of the west 16.67 feet by its depth of lot 7, Richard W. Williams, owner, one hundred and six ($106) dollars. All the center 16.67 feet by its depth of lot 7, Harrison Lomax, owner, one hundred and six ($106) dollars. All of the east 16.67 feet by its depth of lot 7, David Catlett, owner, one hundred and seven ($107) dollars. All of the west 4.16 feet by its depth of lot 8, David Catlett, owner, thirteen ($13) dollars. All of the 16.67 feet by its depth of lot 8, 4.16 feet from the west line of said lot, Geo. Ware, owner, fifty-seven ($57) dollars. All of the 16.67 feet by its depth of lot 8, 12.5 feet from the east line of said lot, David Crawford, owner, fifty-seven ($57) dollars. All of the east 12.5 feet of lot 8, J. T. Armes, owner, forty ($40) dollars. Part of lot 10, beginning at the southwest corner of said lot, thence north 6° 37′ west 43.81 feet, thence south 10° 38′ east to the south line of said lot, thence south 83° 23′ west 3.2 feet to the beginning, John F. Finn, Benj. F. Morrison and Robert H. R. Roberts, owners, one ($1) dollar. Part of lot 11, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet to the north line of said lot, thence north 83° 23′ east 3.2 feet, thence south 10° 38′ east to the south line of said lot, thence south 83° 23′ west 6.85 feet to the beginning, T. H. G. Todd, owner, one ($1) dollar. Part of lot 12, beginning at the southwest corner, thence north 6° 37′ west 50 feet to the north line of said lot, thence north 83° 23′ east 6.85 feet, thence south 10° 38′ east to south line of said lot, thence 83° 23′ west 10.5 feet to the beginning, T. H. G. Todd, owner, one ($1) dollar. Part of lot 13, beginning at the southwest corner of said lot, thence north 6° 37′ west 50 feet to north line of said lot, thence north 83° 23′ east 10.5 feet, thence south 10° 38′ east to the south line of said lot, thence south 83° 23′ west 14.15 feet to the beginning, Rose Wallach and Jesse Brown, owners, one ($1) dollar. Against part of lot 7, block 19, Todd & Brown's subdivision, beginning at the southwest corner of said lot, thence northeasterly along the rear line of said lot to the northwest corner, thence north 83° south 10° 38′ east to
29 the south line of said lot, thence south 83° 23′ west to the beginning, John M. Morris, owner, one ($1) dollar. Against an unsubdivided tract of land owned by Garfield hospital, two thousand ($2,000) dollars. Against a tract of land bounded as follows: Beginning at the southeast corner of lot 7, block 11, of Todd & Brown's subdivision, thence south to Florida avenue, thence eastwardly along north side of Florida avenue to Garfield Hospital grounds, thence northwardly along west line of Garfield Hospital grounds and with said line produced to south line block 11, Todd & Brown's subdivision, thence westwardly along south line of block 11 to the beginning, Louis H. Schneider, Julius Schneider, Carrie A. Schneider, George W. Schneider, Walter E. Schneider and Mary E. Cissel, owners, nineteen thousand five hundred ($19,500) dollars. Against a tract of land bounded by block 11, Todd & Brown's subdivision, on the north; on the west by grounds of Schneider heirs,

on the south by Garfield Hospital grounds, on the east by a line parallel and distant 245 feet from the center line of 11th street extended, Nicholas Beck, owner, twenty-five (825) dollars. It is this 19th day of March, A. D. 1900, upon motion of counsel for the Commissioners of the District of Columbia, ordered: That the aforesaid verdict, award and assessment of said jury, in all respects, be, and the same is hereby, confirmed unless cause to the contrary is shown on or before the 19th day of April, A. D. 1900, provided a copy of this order be published once in the Washington Law Reporter and twice in the Evening Star before said last-named date; and it is further ordered that before said date the marshal serve a copy of this order personally on the owners of the land condemned and the owners of land assessed in said verdict, with the one-half of the damages awarded therein, who may be found within the District of Columbia, and if not found therein then by mailing a copy thereof to the place of abode or last known place of residence of such owner or owners.

A. B. HAGNER, *Justice.*

A copy of the foregoing order *nisi* was duly published (as therein directed) in the Washington Law Reporter and the Evening Star. Proof of publication filed in the cause.

Answer to Rule to Show Cause.

Filed April 17, 1900.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re THE EXTENSION OF ELEVENTH STREET N. W.

Now comes the respondent Charles S. Bundy, in his own proper person, in answer to the rule to show cause why the award and assessment of the jury in this cause should not be confirmed, and says that the said award and assessment ought not to be confirmed:

1. Because said award and assessment are contrary to the instructions of this court.

2. Because the damages awarded thereby are excessive.

3. Because the said award and assessment are not confined to the damages done to the owners of land by reason of the extension and opening of Eleventh street, nor to any injuries done or likely to be done to any adjoining land by reason of the extension or opening thereof, but, on the contrary, the said award provides for and awards to owners of land large sums of money, to wit, sums aggregating twenty thousand dollars and upwards, under the name of "grade damage," for grading lands to a great distance back from the building line of said Eleventh street, to wit, to a distance of 180 feet therefrom on the west side of said street, and to a distance of 100 feet therefrom on the east side of said street, and the said "grade

damage-" so wrongfully and unjustly awarded are by the said jury assessed against the pieces or parcels of ground on both sides of said extension of Eleventh street, to the great injury and damage of your respondent.

C. S. BUNDY, *P. P.*

Protest of Philip Mauro.

Filed April 19, 1900.

In the Supreme Court of the District of Columbia, Sitting as a District Court, the 19th Day of April, 1900.

In re EXTENSION OF 11TH STREET. No. 556, District Ct.

Comes now Philip Mauro, by his attorneys, Clifford S. Walton, Esq., and Morgan H. Beach, Esq., and shows to the court that he is the owner of lot thirteen (13), block twenty (20), Columbia Heights, which has a frontage of fifty (50) feet on the south side of Whitney avenue and a depth of one hundred and forty and twenty-five one-hundredths (140.25) feet souththerefrom, and does not abut upon the proposed extension of 11th street; notwithstanding which his lot has been recently assessed by the jury's verdict, heretofore returned, in the sum of five hundred and nine dollars ($509) as the extent to which the same would be benefited by the opening and extension aforesaid.

He further shows that the lot in question is in nowise benefited by such extension, or, if benefited at all, the amount assessed therefor is excessive.

Wherefor he claims the right to be heard in this behalf, and to make all legal and equitable defenses against such assessment for the alleged benefit by said extension.

CLIFFORD S. WALTON,
MORGAN H. BEACH,
Att'ys for Philip Mauro.

31 *Objections to Confirmation of Award of Jury.*

Filed April 19, 1900.

In the Supreme Court of the District of Columbia, Holding a District Court for said District.

In re EXTENSION OF ELEVENTH STREET NORTHWEST. No. 556.

The respondent Mary C. Sullivan, in response to the rule to show cause in the above-entitled cause, passed therein heretofore, to wit, on the 19th day of March, A. D. 1900, against the confirmation of the verdict, award, and assessment of the jury in the above-entitled cause, for cause shows to the court that in so far as the said verdict and assessment concerns the property of this respondent, namely, all of lot nine, in block 14, Todd & Brown's subdivision—the said verdict

and assessment assesses $263—the same should not be confirmed, but should be vacated, set aside, and for naught held for the following, among other, reasons:

1. That the verdict and assessment is arbitrary and unreasonable, in that it assesses against this respondent's said lot the said sum above set forth for benefits assumed to result to the said lots from the extension of the street, while the property immediately adjoining, namely, part of lot ten, lying within two hundred feet of the building line of the said proposed street, has been assessed the nominal sum of one dollar; which said lot bears the same relation to the proposed extension of the said street and is benefited in the same manner and to the same extent as is respondent's lot, if any of the said lots are benefited at all, which this respondent denies.

2. Because the said award is further arbitrary and unreasonable, in that it undertakes to award to the owners of certain lots specified in the verdict of the jury so-called "grade damages," contrary to the statute in this case made and provided, and to the detriment of this respondent.

3. Because this respondent's lot is in nowise benefited by the prospective extension of Eleventh street in the manner intended, and no assessment should be made against it whatever.

For which said several reasons, and for others apparent upon the record, this respondent submits that the said alleged verdict, award, and assessment is wholly void and without effect, and that the same should be vacated and set aside.

MARY C. SULLIVAN,
By R. B. BEHREND, *Attorney.*

32 *Exceptions to Verdict of Jury, &c.*

Filed April 19, 1900.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re THE EXTENSION OF ELEVENTH STREET NORTHWEST. No. 556.

Now comes the respondent Avarilla Lambert, through her attorneys, Messrs. Lambert and Lambert, and says that she is the owner of lot # 8, in block # 15, of Todd and Brown's subdivision, as set forth in the above cause, and is also the owner of lot seven (7), of block sixteen (16), in said Todd and Brown's subdivision, as same is set forth in said proceedings, and she appears and excepts as follows to the finding or verdict of the jury of seven heretofore filed in said cause upon the 20th day of February, A. D. 1900:

2. That said lot 8 has a frontage of fifty (50) feet upon the west side of Sherman Ave. N. W. and a depth of one hundred and fifty (150) feet fronting upon another street, and said lot 7 has a frontage of fifty (50) feet upon the south side of Kenesaw Ave. or Wallach street N. W. and a depth of about two hundred and seventy-five (275) feet, and is distant less than two hundred (200) feet from pro-

posed Eleventh street extended and on the west side thereof, within the area assessable or taxable under the act of Congress approved March 3rd, 1899, entitled "An act to extend S street, in the District of Columbia, and for other purposes," for so-called or assumed benefits accruing for the opening of said 11th street, whereas neither the extension of said street or the marking or laying it out upon paper or the condemning and taking of the land embraced within its area will in any way whatsoever benefit said lot 7, but, on the contrary, is liable to greatly depreciate the value of said lot 7.

3. That said jury has attempted to assess the sum of $1,897 for supposed benefits accruing to said lot 7, which said assessment is wholly contrary and in direct disregard of the weight of the evidence introduced in said cause.

4. That said lot numbered 7 does not front upon or touch in any way said 11th street extended, and in considering the questions of assessments said jury should have taken such situation into consideration.

5. That there is already pending in this court, to wit, cause No. 555, entitled "*In re* the extension of Sherman Ave.," wherein this respondent is also a defendant and wherein this same property is affected, and it is proposed under color of law to assess benefits and take part of said property for the widening of said avenue; that such assessment would be in the nature of double taxation, in violation of the express provisions of the Constitution as well as of the spirit thereof and an attempt to indirectly take private property without compensation or consideration.

33 6. That the extension of 11th street gives no additional easement to either of said lots, they already having full and convenient access to and from the city of Washington, lot 8 fronting on Sherman Ave. and said lot 7 having access through Kenesaw Ave., 13th street, and also by way of Sherman avenue; that said extension in no way gives or affords either of said lots a better easement or access than they now enjoy.

7. One-half of the aggregate of damages awarded for the taking of the land for said 11th street is proposed by said act to be laid arbitrarily and capriciously upon two parallel strips, each two hundred (200) feet wide and adjoining at the outer east and west lines the said extension; to assess such in the guise of benefits, it is submitted, would be onerous and unconstitutional.

Wherefore petitioner prays:

That said finding of said jury may be set aside or properly adjusted by this honorable court.

And for such other and further relief as the nature of the case may require.

TALLMADGE A. LAMBERT,
WILTON J. LAMBERT,
Solicitors for Petitioner.

Marshal's Return of Service, &c.

Filed April 27, 1900.

In the Supreme Court of the District of Columbia, Holding a District Court for said District.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Pursuant to order of court made herein March 19, 1900, I have served copies of the notice referred to in said order on the following-named persons, as indicated, and on the dates stated, those mailed being mailed to the last known address of the party:

Name.	Service.	Date.
Eugene Byrnes.....	Personally	April 5, 1900.
James H. Elsworth.....	Mailed, Washington, D. C.	" 14, "
A. Grant, trustee.....	Personally	" 3, "
G. T. Stone, trustee.....	Do.	" 3, "
Samuel J. Stanton.....	Mailed, Washington, D. C.	" 14, "
Fannie E. Pate.....	Personally	" 2, "
J. G. Meyers.....	Mailed, Washington, D. C.	" 14, "
Abner Greenleaf.....	Mailed, # 1415 Park Ave., Baltimore, Md.	" 14, "
Wm. B. Fellows.....	Mailed, Washington, D. C.	" 14, "
Azilit N. Blanchard...	Mailed, Washington, D. C.	" 14, "
Rosa E. Gerhold.....	Personally	" 5, "
Edwin S. Holmes.....	Do.	" 6, "
34		
J. G. A. Kullander.. ...	Mailed, Washington, D. C.	April 14, 1900.
L. L. Hollanday.....	Mailed, Washington, D. C.	" 14, "
J. T. Waggaman.....	Personally	" 3, "
Sarah P. Grogan.....	Personally	" 2, "
Joseph H. Sweeney.....	Mailed, Osage, Iowa.....	April 14, 1900.
F. B. Brock	Personally	" 3, "
Wm. P. Springer.....	Do.	" 3, "
C. A. Carey.....	Do.	" 2, "
W. P. Kellogg.....	Do.	" 3, "
F. Colton.....	Do.	" 3, "
E. D. Berry.....	Mailed, Washington, D. C.	" 14, "
Phebe E. Sharpless.....	Personally	" 5, "
M. M. Parker, trustee..	"	" 6, "
P. Pulsifer, trustee.....	Mailed, # 16 Drummond St., Auburn, Me.	" 14, "
Wm. Lampson.....	Mailed, Washington, D. C.	" 14, "
Henry F. Samstag.....	Mailed, New York city.....	" 14, "
Cora Behrend	" # 355 Broadway, New York.	" 14, "
Julia Luchs, widow of Max Luchs.	Personally	" 2, "
John Sherman	"	" 3, "

Name.	Service.	Date.
A. M. Hoyt	Mailed, 1 Broadway, N. Y.	April 14, 1900.
Louis H. Schneider	Personally	" 2, "
Julius Schneider	"	" 2, "
Carrie A. Schneider	"	" 3, "
George W. Schneider	"	" 3, "
Walter E. Schneider	"	" 3, "
Mary E. Cissel	"	" 2, "
Julia D. Simmons	"	" 2, "
S. Dana Lincoln	"	" 5, "
Rosa Wallach	Mailed, # 1801 I St. N. W.	" 14, "
Jesse Brown	Do.	" 14, "
John H. Nelson	Mailed, Washington, D. C.	" 14, "
George S. Cooper	Personally	" 2, "
Annie M. Cocks	"	" 6, "
Wm. V. Gibson	"	" 5, "
Douglass Edmunds	Personally	April 2, 1900.
John B. Ruffin	Do.	" 5, "
Edward P. Goodrich	Do.	" 5, "
Mary C. Mattingly	Mailed, Washington, D. C.	" 14, "
John C. Walker	Personally	" 2, "
Herbert W. Porter	Do.	" 3, "
John G. Muir	Mailed, Naval Training Station, Marine Barracks, Newport, R. I.	" 14, "

35

William Holmead	Personally	April 5, 1900.
Wm. H. Saunders	Do.	" 2, "
Chas. E. Foster	Do.	" 6, "
Chas. C. Bryan	Do.	" 5, "
J. Rudden, trustee	Do.	" 2, "
J. Connor, trustee	Do.	" 11, "
V. Anderson	Do.	" 2, "
L. H. Meyers	Do.	" 2, "
Angeline C. Brainard	Mailed, Washington, D. C.	" 14, "
Freeman H. Matt	Do.	" 14, "
Barrows W. King	Personally	" 6, "
J. Gibbons, archbishop	Mailed, Baltimore, Md.	" 14, "
Theron Outwater	Personally	" 2, "
Chas. S. Elliott	Mailed, Washington, D. C.	" 14, "
Philip Mauro	Personally	" 4, "
W. C. Duvall	Do.	" 2, "
John W. Paine	Personally	" 3, "
J. B. Williamson, Jr.	Do.	" 2, "
Mary E. Ford, Jr.	Do.	" 2, "
John J. Albright	Mailed, Ellicott Sq., Buffalo, N. Y.	" 14, "
E. C. Kellogg	Personally	" 3, "
Chas. Newell	Mailed, Washington, D. C.	April 14, 1900.
Eliza R. Cooper	Do.	" 14, "
Orville R. Matt	Do.	" 14, "

Name.	Service.	Date.
L. C. F. Hugo	Personally	April 3, 1900.
Milton C. Hooker	Do.	" 3, "
Edwin F. Lane	Mailed, Washington, D. C.	" 14, "
L. S. Lipscomb	Personally	" 3, "
Frederick W. Price	Do.	" 3, "
John W. Morris	Do.	" 2, "
Chas. M. Carter	Do.	" 3, "
Alfred L. White	Mailed, # 115 Broadway, N. Y.	" 14, "
Samuel C. Lovejoy	Mailed, Washington, D. C.	" 14, "
Sallie N. Mackenzie	Do.	" 14, "
Henrietta A. Pixton	Do.	" 14, "
Melita Spelshouse	Personally	" 5, "
Isaac W. Nordlinger	Do.	" 2, "
Isaac L. Blout	Do.	" 5, "
Leo J. Rosenthal	Mailed, Washington, D. C.	" 14, "
Abraham D. Prince	Personally	" 3, "
T. G. H. Todd	Do.	" 14, "
John W. Schaeffer	Do.	" 3, "
Robert F. Elliott	Mailed, Washington, D. C.	" 14, "
Chas. S. Bundy	Personally	" 2, "
Geo. J. Mueller	Do.	" 3, "
36		
Bettie Newman	Mailed, Washington, D. C.	April 14, 1900.
Robert P. Fletcher	Do.	" 14, "
Andrew J. Miller	Mailed, Equity Security Co., 58 Pine street, New York.	" 14, "
J. Lang	Mailed, Washington, D. C.	" 14, "
W. G. Gray	Do.	" 14, "
A. B. Prigg	Personally	April 2, "
Mrs. S. A. Reeves, married daughter of Nathan A. Poole, deceased.	Do.	" 2, 1900.
S. J. Cunningham	Do.	" 2, "
F. A. Daley	Mailed, Washington, D. C.	" 14, "
Isadore A. Duchesne	Personally	" 2, "
John B. Laybrook	Mailed, Washington, D. C.	" 14, "
Mary C. Sullivan	Do.	" 14, "
Sewell A. Reeves	Personally	" 2, "
R. Bruce Bare	Do.	" 2, "
Avasilba Lambert	Do.	" 2, "
Wm. H. German	Do.	" 3, "
John Seibel	Do.	" 3, "
Anna North, on C. B. Caywood.	Do.	" 3, "
Thomas B. Sanders	Do.	" 2, "
Wm. M. Stuart	Do.	" 4, "

Name.	Service.	Date.
Otto Gasch.....	Mailed, Washington, D. C.	April 14, 1900.
Caroline Mytinger.....	Personally	" 5, "
Lorin M. Sanders.....	Do.	" 3, "
Edwin B. Olmstead...	Mailed, Washington, D. C.	" 14, "
Chas. E. Vreeland.....	Do.	" 14, "
Edward H. Booth.....	Personally	" 3, "
Wm. W. Metcalf.....	Mailed, # 1531 Vt. Ave...	" 14, "
Thos. R. Strothers.....	Personally	" 2, "
Chas. H. Ware.....	Mailed, Washington, D. C.	" 11, "
Mrs. Monahan, widow of Michael Faherty.	Personally	" 5, "
Wolf Nordlinger.....	Personally	" 3, "
John T. Thurston.....	Do.	" 2, "
Chas. P. Scott.....	Do.	" 2, "
Thaddeus Fields.....	Do.	" 9, "
H. C. Machette	Mailed, Washington, D. C.	April 14, 1900.
A. G. Machette.....	Do.	" 14, "
W. D. West	Personally	" 5, "
C. J. McCubin.....	Do.	" 6, "

37

Geo. C. Johnson.....	Do.	April 5, 1900.
W. D. S. Williamson..	Do.	" 2, "
Alice J. Sowells.....	Do.	" 6, "
Richard D. Williams..	Do.	" 2, "
Harrison Lomax.....	Do.	" 3, "
David Catlett.....	Do.	" 3, "
George Ware	Do.	" 3, "
David Crawford.....	Do.	" 3, "
J. T. Armes.....	Do.	" 2, "
John F. Finn.....	Do.	" 2, "
Benj. F. Morrison.....	Do.	" 5, "
Rob't H. R. Roberts...	Do.	" 2, "
Garfield hospital, on John A. Baker, vice-prest'	Do.	" 3, "
Nicholas Beck.....	Do.	" 2, "
Francis W. Baker.....	Mailed, Washington, D. C.	" 14, "
Jennette R. Lenman..	Personally.....	" 2, "
Isabel H. Lenman.....	Do.	" 2, "

Respectfully submitted.

AULICK PALMER,
U. S. Marshal.

R.

Exceptions to Award of Jury.

Filed May 11, 1900.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re THE EXTENDING OF ELEVENTH STREET N. W. No. 556.

Now comes the respondents Isaac L. Blout, Reuben Harris, and Abraham D. Prince, through their attorneys, Messrs. Wolf and Rosenberg, the respondent Blout saying that he is the owner of lot 25, in block 25, being on the south side of Princeton street, and the respondent- Harris and Prince the owners of lot 24, in block 26, being on the south side of Yale street, as same is set forth in said proceedings, and the said respondents except to the findings of the jury filed in said cause on the 2nd day of February, A. D. 1900.

1. That said lots, being embraced within the area covered by the act entitled "An act to extend 'S' street, in the District of Columbia, and for other purposes," said act ordering the extending of Eleventh street, are in nowise benefitted by the condemnation proceedings had in said cause, and that until the said Eleventh street is actually extended as contemplated by said act, no benefits can accrue to the adjacent land-, but, on the contrary, — are much injured and diminished in value.

38 2. That said jury has attempted to assess lot 25, in block 25, the sum of seven hundred and fifty-three dollars ($753.00), and lot 24, in block 26, the sum of nine hundred and four dollars ($904.00), the jury in making each of said assessments wholly disregarding and finding contrary to the weight of the evidence introduced in said cause.

3. That neither of said lots front or in anywise touch upon the proposed Eleventh street, and in considering the question of assessment the jury should have taken such situation into consideration.

4. That the extending of the said Eleventh street gives no additional easement to either of the said lots, they already having full and convenient access to and from the city of Washington.

5. That neither of the lots belonging to these respondents abutts or touches upon the said proposed Eleventh street, and as the act aforesaid contemplates only such land which directly comes in contact with the said Eleventh street should be assessed for benefits, the jury aforesaid exceeded its proper functions by assessing said lots.

6. The act for extending said Eleventh street directs the jury to assess not less than one-half the amount of damages for the taking of said strips or parcels of land against those pieces or parcels within an area of two hundred feet from the proposed Eleventh street, and the said jury did assess one-half of the said damages against the two hundred feet — adjacent property, and as this amount is far in excess of the actual benefits accruing to such adjacent land and as for the excess it is taking property without due process of law, the assessing of said excess is burdensome, tyrannical, and unconstitutional.

Wherefore the respondents pray that the findings of said jury may be set aside and properly adjusted by this honorable court, and for such other and further relief as the nature of the case may require.

WOLF & ROSENBERG,
Attorneys for Isaac L. Blout, Reuben Harris, and Abraham D. Prince.

Objections to Confirmation of Assessments for Benefits.

Filed June 28, 1900.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come John Sherman and A. M. Hoyt, by their attorney, Leo Simmons, Esq., owners of certain land in blocks 27 and 28 of a subdivision now known as Columbia Heights, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and object to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment
39 is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Att'y for Sherman and Hoyt.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now comes Allen S. Johnson, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot two (2), in block 17, of a subdivision known as Todd and Brown's subdivision, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Allen S. Johnson.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come- Herbert W. Porter, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot 8, in block 47, of a subdivision known as Holmead Manor, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Herbert W. Porter.

40 In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come- N. M. Leadingham, by attorney, Leo Simmons, Esq., owner of certain land, viz., lots 5 and 7, in block 17, of a subdivision known as Todd and Brown's subdivision of Mt. Pleasant and Pleasant Plains, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Nellie M. Leadingham.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now comes S. E. Henry, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot 4, in block 15, of a subdivision known as Todd and Brown's subdivision of Mt. Pleasant and Pleasant Plains, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made

without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for S. E. Henry.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now comes Geo. S. Cooper, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot 7, in block thirteen, of a subdivision known as Todd and Brown's subdivision of Mt. Pleasant and Pleasant Plains, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made
41 without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Geo. S. Cooper.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come- T. B. Brock, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot 17, in block twenty-one, of a subdivision known as Columbia Heights, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for T. B. Brock.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come- Joseph H. Sweeney, by attorney, Leo. Simmons, Esq., owner of certain land, viz., lot three, in block 47, of Holmead Manor

subdivision, and lot two (2), in block twenty-one, of a subdivision known as Columbia Heights, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Joseph H. Sweeney.

42 In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come Rosa E. Gerhold, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot 16, block twenty (20), of a subdivision known as Columbia Heights, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawfuly authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Rosa E. Gerhold.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now comes Abner Greenleaf, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot three, in block twenty, of a subdivision known as Columbia Heights, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Abner Greenleaf.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come Edgar C. Kellogg, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot 2, block twenty (20), of a subdivision known as Columbia Heights, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of
43 a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Edgar C. Kellogg.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come M. M. Parker and P. Pulsifer, trustees, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot 20 and 21 and sublots 27 to 32, inclusive, in block twenty-four, of a subdivision known as Columbia Heights, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and object to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for M. M. Parker and P. Pulsifer, Trustees.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come Louis H. Schneider, Julius Schneider, Carrie E. Schneider, George W. Schneider, Walter E. Schneider, and Mary E. Cissel, by attorney, Leo Simmons, Esq., owners of certain land situated on the east side of blocks 27 and 28 of a subdivision known as Columbia Heights and on the west side of the Garfield Hospital tract, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and object to the confirmation

of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorneys for Owners.

44 In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come L. H. Meyers and Victor Anderson, by attorney, Leo Simmons, Esq., owners of certain land, viz., lots 40 and 41, block 47, of a subdivision known as Holmead Manor, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and object to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Meyers and Anderson.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come Thomas H. G. Todd, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot 8, block fourteen (14), of a subdivision known as Todd and Brown's subdivision, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Thos. H. G. Todd.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come Fannie E. Pate, by attorney, Leo Simmons, Esq., owner of certain land, viz., lot 21, block 47, of a subdivision known as Holmead Manor, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and objects to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a
45 statute, the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further grounds that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Attorney for Fannie E. Pate.

In the Supreme Court of the District of Columbia, Holding a District Court.

In re EXTENSION OF ELEVENTH STREET N. W. No. 556.

Now come Wm. Holmead and Wm. H. Saunders, trustees, by attorney, Leo Simmons, Esq., owner- of certain land, viz., — 9 to 16, both inclusive, in block 47, of a subdivision known as Holmead Manor, which has been assessed by the jury in the above-entitled cause for certain alleged benefits, and object to the confirmation of such assessments upon the ground that same were made without lawful authority, under and by virtue of a statute the section of which requiring such assessment is and has been declared unconstitutional and void; upon the further ground that said assessments were made without regard to benefits, under and by virtue of an erroneous instruction of the court, and such assessments far exceed the benefits received, and are therefore illegal and void.

LEO SIMMONS,
Att'y for Wm. Holmead and Wm. H. Saunders, Trustees.

Motion to Confirm Verdict, &c.

Filed June 26, 1900.

In the Supreme Court of the District of Columbia, Sitting as a District Court.

In re THE EXTENSION OF ELEVENTH STREET. No. 556, Dist. Court.

Now come The Commissioners of the District of Columbia, the petitioners herein, and by their counsel move the court to overrule each and all of the exceptions heretofore filed to the verdict, award, and assessment of the jury filed herein, and to finally confirm the

said verdict, award, and assessment of said jury notwithstanding said exceptions.

A. B. DUVALL,
C. A. BRANDENBURG,
Attorneys for Petitioners.

To —— ——:

Please take notice that the above motion will be called for hearing before Mr. Justice Hagner, holding the District court, on
46 Saturday, June 30th, 1900, at 10 o'clock a. m., or as soon thereafter as counsel can be heard.

A. B. DUVALL,
C. A. BRANDENBURG,
Attorneys for Petitioners.

June 26th, 1900—Mailed copies of the above in free-mail delivery envelopes—

To C. S. Bundy, C. S. Walton & M. H. Beach, att'ys for Philip Mauro; Lambert & Lambert, att'ys for Averilla Lambert; R. B. Behrend, att'y for Mary C. Sullivan; G. W. Cooper, att'y for C. W. Carter; Leo Simmons, Leon Tobriner, Sam'l Maddox, J. Miller Kenyon, D. McPherson, Wolf & Rosenberg, I. W. Nordlinger, Duckett & Dent, Richardson & Stewart, R. S. Smith, Millan & Smith, C. H. Cragin, A. A. Birney, Gordon & Gordon, and Jesse W. Rawlins.

A. B. DUVALL.

Endorsed.

The decision of this motion is hereby certified to Chief Justice Bingham for his determination.

A. B. HAGNER,
Asso. Justice.

June 30, 1900.

Order Confirming Award of Damages, &c.

Filed July 3, 1900.

In the Supreme Court of the District of Columbia, Sitting as a District Court.

In re THE EXTENSION OF ELEVENTH STREET. No. 556, District Court.

This cause came on to be heard on the motion of the petitioners herein, The Commissioners of the District of Columbia, filed under the act of Congress approved June 6, 1900, to confirm the verdict, award, and assessment of the jury heretofore filed herein, and to overrule the exceptions filed by the several owners of real estate who are assessed for benefits in and by said verdict of said jury; and the said motion was argued by counsel for the respective parties, and it appearing to the court that the order *nisi*, confirming said verdict,

award, and assessment of said jury, has been duly published as therein provided, and that the owners of the property taken for the extension of said street and the owners of the land assessed with one-half of the amount awarded for damages have been duly notified of the pendency of this proceeding and of the said assessments, as provided by the order of the court heretofore passed herein—

It is, this 3d day of July, A. D. 1900, by the court adjudged, ordered, and decreed that the several awards of the said jury for and
47 in respect of the land condemned for the extension of said Eleventh street be, and the same are hereby, finally ratified and confirmed, and that the land necessary for the extension of Eleventh street northwest on a straight extension of the lines thereof as now established in the city of Washington, with a width of ninety feet, from Florida avenue to Harvard street, and thence, with the same width and in a straight line, to Lydecker avenue, joining said avenue with its center line opposite the center line of Eslin avenue, and in this proceeding described and shown on the plat filed herein, be, and the same is hereby, condemned; and payment of the several sums of money in said verdict found to be due and payable for the lands aforesaid shall be made in accordance with the act of Congress approved March 3, 1899, and the amendments thereof approved June 6, 1900, pursuant to which proceedings in this cause have been had.

And it is further adjudged, ordered, and decreed that the several assessments for benefits made, returned, and levied by the jury in its aforesaid award filed in this cause be, and they are hereby, declared illegal, null, and void, and the same are hereby set aside and vacated; and from so much of this order as declares said assessments to be illegal, null, and void the petitioners in open court pray an appeal to the Court of Appeals, which is hereby allowed.

E. F. BINGHAM, *C. J.*

Order Extending Time to File Transcript.

Filed July 10, 1900.

In the Supreme Court of the District of Columbia.

In re EXTENSION OF ELEVENTH STREET. No. 556, District Court.

Upon motion of counsel for the petitioners herein, it is by the court, this 10th day of July, 1900, ordered that the time for filing the transcript of record on appeal in the Court of Appeals be extended to December 1st, 1900.

E. F. BINGHAM,
Chief Justice.

Directions to Clerk for Preparation of Record.

Filed November 24, 1900.

In re THE EXTENSION OF ELEVENTH STREET. No. 556, Dist. Ct.

In preparing the record on appeal herein the clerk will include the following:

Petition, &c., filed May 31, 1899.

Order for appearance, &c., filed September 16, 1899.

Citation to owners and return of marshal thereon, filed Oct. 2, 1899.

48 Statement as to due publication, &c.

Order directing marshal to summon jury, filed Nov. 10, 1899.

Exceptions of C. S. Bundy to instructions of court, filed Dec. 16, 1899.

Objections of C. S. Bundy to assessments on lots 9 and 11, block 12, filed Dec. 16, 1899.

Instructions of court to jury, filed Jan'y 10, 1900.

Exceptions of Chas. M. Carter, filed Mar. 5, 1900.

Order *nisi* confirming verdict, award, and assessment of jury, filed Mar. 19, 1900.

Statement as to due publication, &c.

Answer to rule by C. S. Bundy, filed April 17, 1900.

Protest of Philip Mauro, filed April 19, 1900.

Objections by Mary C. Sullivan, filed April 19, 1900.

Exceptions of Avarilla Lambert, filed April 19, 1900.

Return of marshal upon order *nisi*, filed April 27, 1900.

Exceptions of I. S. Blout *et al.*, filed May 11, 1900.

Objections of Sherman and Hough, filed June 28, 1900.

Motion by Commissioners for confirmation of verdict, &c., filed June 28, 1900.

Order confirming verdict and assessments declared null and void, filed July 3, 1900.

Appeal to Court of Appeals July 3, 1900.

Order extending time for filing transcript, &c., &c.

A. B. DUVALL,
Attorney, D. C.

Nov. 24, 1900.

Order Extending Time to File Transcript.

Filed November 28, 1900.

In the Supreme Court of the District of Columbia.

In re EXTENSION OF ELEVENTH STREET. No. 556, Dist. Ct.

Upon motion of A. B. Duvall, Esq., attorney for petitioners, the time for filing transcript of record in Court of Appeals in the above-entitled cause is further extended until Tuesday, January 1st, 1901.

A. B. HAGNER, *Justice.*

November 28th, 1900.

Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, *District of Columbia*, } *ss:*

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 60, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made
49 part of this record, in cause No. 556, District court, *In re* extension of Eleventh street northwest, as the same remains upon the files and of record in said court.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at the city of Washington, this 17th day of December, A. D. 1900.

Seal Supreme Court of the District of Columbia.

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1039. John B. Wight *et al.*, appellants, *vs.* Eugene Byrnes *et al.* Court of Appeals, District of Columbia. Filed Dec. 20, 1900. Robert Willett, clerk.

50 *Return to Writ of Certiorari.*

Court of Appeals of the District of Columbia, April Term, 1901.

HENRY B. F. MACFARLAND, JOHN W. ROSS, and JOHN Biddle, Commissioners of the District of Columbia, Appellants,

vs.

EUGENE BYRNES ET AL.

No. 1039.

Appeal from the supreme court of the District of Columbia.

Filed May 16, 1901.

THE UNITED STATES OF AMERICA, *ss:*

[Seal Court of Appeals, District of Columbia.]

The President of the United States of America to the honorable the justices of the supreme court of the District of Columbia, Greeting:

Whereas in a certain suit in said supreme court entitled *In re* extension of Eleventh street, No. 556, district court, which suit was removed to the Court of Appeals of the District of Columbia by virtue of an appeal, agreeably to the act of Congress in such case made and provided, a diminution of the record and proceedings of said cause has been suggested, to wit, "the verdict and award of the jury:"

You, therefore, are hereby commanded that, searching the
51 record and proceedings in said cause, you certify what omissions, to the extent above enumerated, you shall find to the

said Court of Appeals, so that you have the same, together with this writ, before the said Court of Appeals forthwith.

Witness the Honorable Richard H. Alvey, Chief Justice of the said Court of Appeals, the 16th day of May, in the year of our Lord one thousand nine hundred and one.

ROBERT WILLETT,
Clerk of the Court of Appeals of the District of Columbia.

(Endorsed:) Court of Appeals of the District of Columbia. No. 1039. April term, 1901. John B. Wight *et al.*, Commissioners D. C., *vs.* Eugene Byrnes *et al.* Writ of certiorari.

In the Supreme Court of the District of Columbia, Holding a District Court for said District.

In re THE EXTENSION OF ELEVENTH STREET NORTHWEST. No. 556.

We, the jury in the above-entitled cause, hereby find the following verdict and award of damages for and in respect of the land condemned and taken necessary for the extension of Eleventh street northwest on a straight extension of the lines thereof, as now established in the city of Washington, with a width of ninety (90) feet, from Florida avenue to Harvard street, and thence with the same width and in a straight line to Lydecker avenue, joining said avenue with its center line opposite the center line of Eslin avenue, as shown on the plat or map filed with the petition herewith, as set forth in Schedule 1, hereto annexed as part hereof, and we, the jury aforesaid, in accordance with the act of Congress approved March 3, 1899, for the extension of said street, do hereby assess the sum of $134,560.00, being one-half of the damages so as aforesaid awarded in Schedule 1, against those pieces or parcels of ground abutting that portion of the street to be opened, and extending to a depth of two hundred (200) feet from the building lines of said Eleventh street as extended, which we find will be benefited by the extension of said Eleventh street, as set forth in Schedule 2, hereto annexed as part hereof.

Witness our hands and seals this 16th day of February, A. D. 1900.

(Sig.)	NOBLE D. LARNER.	[SEAL.]
(Sig.)	E. S. PARKER.	[SEAL.]
(Sig.)	CHAS. B. BAILEY.	[SEAL.]
(Sig.)	GEORGE W. MOSS.	[SEAL.]
(Sig.)	A. D. HAZEN.	[SEAL.]
(Sig.)	ROB'T I. FLEMING.	[SEAL.]
(Sig.)	HENRY F. BLOUNT.	[SEAL.]

52 SCHEDULE No. 1.

Award of Damages for the Extension of Eleventh Street Northwest.

Description of piece or parcel of land taken.	Area taken (sq. ft.).	Award of damages.
Part of lot 6, block 47, of Holmead Manor, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	7,418.50	$5,935.00
Part of lot 7, block 47, of Holmead Manor, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	1,730.00	1,384.00
Part of lot 19, block 47, of Holmead Manor, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	3,943.50	2,760.00
Part of lot 20, block 47, of Holmead Manor, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	7,486.40	5,240.00
Part of lot 21, block 47, of Holmead Manor, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	2,337.16	1,636.00
Damage to house on above lot	.....	4,000.00
Part of sublot 39, block 47, of Holmead Manor, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	433.70	346.00
Damage to house on above lot	.....	3,000.00
Part of sublot 40, block 47, of Holmead Manor, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	1,693.34	1,355.00
Damage to house on above lot	.....	7,800.00
Part of sublot 41, block 47, of Holmead Manor subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	2,356.00	1,885.00
Damage to house on above lot	.....	7,800.00
Part of lot 3, block 20, of Columbia Heights subdivision included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	5,868.40	3,521.00
Part of lot 4, block 20, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	8,698.60	5,219.00
Part of lot 5, block 20, of Columbia Heights —, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	1,559.40	936.00
Part of lot 15, block 20, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	1,270.60	889.00
Damage to stable on above lot	.....	300.00
Part of lot 16, block 20, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	8,363.10	5,854.00
Part of lot 17, block 20, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	6,518.50	4,563.00
Part of lot 18, block 20, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	121.70	85.00
Part of lot 1, block 21, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	8,219.30	4,932.00
Part of lot 2, block 21, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	1.70	1.00
Part of lot 17, block 21, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	2,430.00	1,337.00

53 *Schedule No.* 1—Cont'd.

Description of piece or parcel of land taken.	Area taken (sq. ft.).	Award of damages.
All of lot 18, block 21, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	7,813.20	$4,297.00
Part of sublot 22, block 21, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	4,067.60	2,237.00
Part of lot 5, block 23, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	12,385.00	4,954.00
Part of sublot 17, block 23, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	1,852.20	741.00
Part of sublot 20, block 23, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	2,211.30	1,437.00
Part of sublot 21, block 23, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	325.00	211.00
Damage to house on above lot	.....	600.00
Part of lot 29, block 24, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	1,998.70	1,099.00
Part of lot 30, block 24, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	2,505.00	1,253.00
Part of lot 1, block 25, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	3,779.25	2,646.00
Part of lot 26, block 25, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	3,252.00	1,626.00
Part of lot 1, block 26, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	5,042.95	3,278.00
Part of lot 25, block 26, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	4,515.75	2,709.00
Part of lot 1, block 27, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	9,543.45	5,726.00
Grade damages	.....	2,500.00
Part of lot 30, block 27, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	8,382.60	5,030.00
Grade damage	.....	1,469.00
Part of lot 1, block 28, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	15,657.50	10,960.00
Grade damage	.....	6,300.00
Part of lot 16, block 28, of Columbia Heights subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	13,957.40	8,374.00
Grade damage	.....	6,300.00
Part of lot 6, block 11, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	1,310.25	852.00

54 *Schedule No.* 1—Cont'd.

Description of piece or parcel of land taken.	Area taken (sq. ft.).	Award of damages.
All of lot 7, block 11, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	6,484.50	$4,215.00
Damage to house on above lot.....	.....	3,000.00
Part of lot 6, block 12, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	8,533.50	5,547.00
Part of lot 7, block 12, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	8,680.75	5,208.00
Part of lot 8, block 12, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	381.50	229.00
Part of lot 5, block 13, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	3,773.25	2,453.00
All of lot 6, block 13, of Todd and Brown's subdivision...	6,028.50	3,919.00
Part of lot 7, block 13, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	10,322.30	5,161.00
Part of lot 8, block 13, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	8.20	4.00
Part of lot 4, block 14, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	2,564.25	1,282.00
All of lot 5, block 14, of Todd and Brown's subdivision...	8,503.50	4,252.00
All of lot 6, block 14, of Todd and Brown's subdivision...	6,409.50	3,205.00
Part of lot 7, block 14, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	5,184.75	2,852.00
Part of lot 4, block 15, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	9,340.75	5,604.00
Part of lot 5, block 15, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	5,674.50	2,837.00
Part of lot 4, block 16, of Todd and Brown's subdivision included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	2,031.15	1,320.00
Part of lot 5, block 16, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	14,712.95	8,092.00
Part of lot 6, block 16, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	9,446.05	5,195.00
Part of lot 11, block 16, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	443.80	266.00
Part of lot 5, block 17, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	5,587.50	3,911.00
Part of lot 6, block 17, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	7,457.20	5,220.00
Part of lot 7, block 17, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	488.30	342.00
Part of lot 9, block 17, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause.....	2,086.50	1,252.00

55 *Schedule No.* 1—Cont'd.

Description of piece or parcel of land taken.	Area taken (sq. ft.).	Award of damages.
Part of west half of lot 11, block 17, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	3,631.40	$2,179.00
Damage to houses or above part of lot	.....	2,200.00
Part of east half of lot 11, block 17, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	315.10	189.00
All of sublot 20, block 17, of Todd and Brown's subdivision	2,366.71	1,420.00
All of sublot 21, block 17, of Todd and Brown's subdivision	2,366 57	1,420.00
All of sublot 22, block 17, of Todd and Brown's subdivision	2,366.71	1,420.00
Part of lot 5, block 18, of Todd and Brown's subdivision, included within the lines of Eleventh street extended, as shown by map annexed to petition in this cause	6,154.50	4,000.00
Unsubdivided tract bounded by Florida avenue, Todd and Brown's subdivision, Columbia Heights subdivision, and the east line of Eleventh street extended, and shown by map annexed to petition in this cause		
Land	34,262.50	22,270.00
Damages to frame house	.....	1,500.00
Damage from grading, damage to brick residence, etc.	.....	11,779.00

SCHEDULE No. 2.

Assessments and Benefits for the Extension of 11th Street N. W.

Description of pieces or parcels of land assessed.	House of owner.	Amount of benefits assessed.
Part of lot 6, block 47, Holmead Manor, described as follows: Beginning at N. W. corner said lot, thence north 66 degrees 15′ east 6.2′, thence south 10 degrees 38′ east to the east line of lot 7, thence 26.43′ to beginning.	Eugene Byrnes	$1.00
All of lot 2, block 47, Holmead Manor	Ed. P. Goodrich	319.00
East half by its depth lot 3, block 47, Holmead Manor.	Mary C. Mattingly	163.00
West half of lot 3, block 47, Holmead Manor.	Joseph H. Sweney	325.00
Lot 4, block 47, Holmead Manor	John C. Walker	900.00
Part of lot 7, block 47, Holmead Manor, described as follows: Beginning at the N. E. corner said lot, and south 23 degrees 45′ east 26.43′, thence south 10 degrees 38′ east to Whitney Ave., thence south 66 degrees 15′ west 22′, thence northwest along westerly line of lot 7 150′, thence to beginning.	James H. Elsworth	1,016.00
Lot 8, block 47, Holmead Manor, east half by its depth.	Herbert W. Porter	500.00
West half of lot 8, block 47, Holmead Manor, by its depth.	John G. Muir	400.00
Lot 9, block 47, Holmead Manor	Wm. Holmead & W. H. Saunders.	750.00
Lot 10, block 47, Holmead Manor	Wm. Holmead & W. H. Saunders.	525.00

56 *Schedule No.* 2—Cont'd.

Description of pieces or parcels of land assessed.	House of owner.	Amount of benefits assessed.
Part of lot 11, block 47, Holmead Manor, described as follows: Beginning at the S. E. corner of said lot, thence 23 degrees 45′ west 144.6′, thence south 10 degrees 38′ east to Whitney Ave., thence north 66 degrees 15′ east 33.38′ to the beginning.	Wm. Holmead & W. H. Saunders.	$97.00
Part of lot 15, block 47, Holmead Manor, described as follows: Beginning at S. E. corner said lot, thence south 66 degrees 15′ west 49.15′, thence north 10 degrees 38′ west to Lydecker Ave., thence north 66 degrees 15′ east 14.16, thence to beginning.	Wm. Holmead & W. H. Saunders.	190.00
Lot 16, block 47, Holmead Manor.....	Wm. Holmead & W. H. Saunders.	525.00
Lot 17, block 47, Holmead Manor.	J. T. Lenman	750.00
Lot 18, block 47, Holmead Manor.....	J. T. Lenman	900.00
Part of lot 19, block 47, Holmead Manor, described as follows: Beginning at the N. W. corner said lot, thence southeast along its west line 150′, thence north 66 degrees 15′ east 4.2′, thence north 10 degrees 38′ west to Lydecker Ave., thence south 66 degrees 15′ west 41.22′.	G. F. Stone, A. Grant, trustees.	427.00
Part of lot 21, block 47, Holmead Manor, described as follows: Beginning at the S. W. corner of said lot, thence along south and east lines to Lydecker Ave., thence south 66 degrees 15′ west 16.42′, thence south 10 degrees 38′ east to west line of said lot, thence to beginning.	F. E. Pate.....	620.00
Lot 22, block 47, Holmead Manor.....	C. E. Foster.....	788.00
Lot 23, block 47, Holmead Manor..... ..	C. C. Bryan.....	486.00
Lot 24, block 47, Holmead Manor.	J. Rudden & J. Connor, trustees.	55.00
Sublot 25, block 47, Holmead Manor.....	J. Rudden & J. Connor, trustees.	61.00
Sublot 26, block 47, Holmead Manor...	J. Rudden & J. Connor, trustees.	83.00
Sublot 27, block 47, Holmead Manor...	J. Rudden & J. Connor, trustees.	53.00
Sublot 28, block 47, Holmead Manor...	J. Rudden & J. Connor, trustees.	8.00
Part of sublot 37, bl'k 47, Holmead Manor, as follows: Beginning N. W. cor. of said lot, thence south 23 degrees 48′ east 84′, thence north 10 degrees 38′ west to alley, thence to beginning.	J. Rudden & J. Connor, trustees.	24.00
Sublot 38, block 47, Holmead Manor..... ..	J. Rudden & J. Connor, trustees.	76.00
Part sublot 39, block 47, Holmead Manor, described as follows: Beginning at S. W. cor. said lot, thence north 66 degrees 15′ east 16.67′, thence north 23 degrees 45′ west to alley, thence 66 degrees 15′ S. W. 4.39′, thence south 10 degrees 38′ east to west side of lot, thence to beginning.	V. Anderson, J. H. Meyers.	290.00
Part of sublot 40, block 47, Holmead Manor, described as follows: Beginning at S. W. cor., thence north 23 degrees 45′ west 9.54′, thence north 10 degrees 38′ west to east line of lot, thence south 23 degrees 45′ east to Lydecker Ave., thence to beginning.	V. Anderson, J. H. Meyers.	101.00

57

Description of pieces or parcels of land assessed.	House of owner.	Amount of benefits assessed.
Part sublot 41, block 47, Holmead Manor, described as follows: Beginning at the S. E. cor., thence north 23 degrees 45′ west 9.54′, thence south 10 degrees 38′ east to Lydecker Ave., thence to beginning.	V. Anderson, J. H. Meyers.	$2.00
Lot 2, block 20, Col. Hts. subdiv..... ..	Edgar C. Kellogg.....	891.00
Part lot 3, block 20, Col. Hts. subdiv., described as follows: Beginning at the S. E. cor., thence west 0.78′, thence north 10 degrees 38′ west to rear of lot, thence N. E. along rear of lot 36 44′, thence south along east side of lot to beginning.	Abner Greenleaf.....	194.00
Part of lot 4, block 20, Col. Hts. subdiv., described as follows: Beginning at the S. W. cor., thence north 40.43′, thence south 10 degrees 38′ east to Dartmouth street, thence west 7.64′ to beginning.	Wm. B. Fellows.....	1.00
Part lot 5, block 20, Col. Hts. subdiv., described as follows: Beginning at S. E. cor. of said lot, thence north 40.43′, thence north 10 degrees 38′ west to rear of lot, thence S. W. along rear of lot to its west line, thence south to Dartmouth street, thence east 50′ to the beginning.	Azilit N. Blanchard.....	812.60
Lot 8, block 20, Columbia Heights subdivision.	Angeline C. Brainard...	780.00
Lot 7, block 20, Columbia Heights subdivision.	Freeman H. Matt	537.00
Lot 8, block 20, Columbia Heights subdivision.	Barrows W. King.	201.00
Part of lot 9, block 20, Columbia Hts. subdiv., described as follows: Beginning at N. E. cor., thence south 108′, thence north 10 degrees 38′ west to rear of lot, thence to beginning.	J. Gibbons, archbishop.	32.00
Part of lot 11, block 20, Columbia Hts. subdiv., described as follows: Beginning at S. E. corner, thence north 23 degrees 45′ west 87′, thence south 10 degrees 38′ to rear of lot, thence to beginning.	Thereon Outwater.....	28.00
Lot 12, block 20, Columbia Heights subdivision.	Chas. S. Elliott.....	362.00
Lot 13, block 20, Columbia Heights subdivision.	Philip Mauro.	509.00
Lot 14, block 20, Columbia Heights subdivision.	W. C. Duvall.....	780.00
Part lot 15, block 20, Columbia Hts. subdiv., described as follows: Beginning at the N. E. cor. said lot, thence south 23° 45′ east 64.76′, thence south 10° 38′ east to south line of lot, thence westwardly along south line of lot to its west side, thence north 23° 45′ west 161.29′, thence north 66° 15′ east 50′ to the beginning.	Rosa E. Gerhold.....	1,058.00
Part lot 16, block 20, Columbia Hts. subdiv., described as follows: Beginning at the N. W. cor. said lot, thence south 23° 45′ east 32.27′, thence north 10° 38′ west to Lydecker Ave., thence to beginning.	Edwin S. Holmes.....	73.00
Part lot 17, block 20, Columbia Hts. subdiv., described as follows: Beginning at S. E. cor. of said lot, thence north 23° 45′ west 160.57, thence south 10° 38′ east to south line of lot, thence direct to beginning.	J. G. A. Kullander & L. L. Hollanday.	229.00

58

Description of pieces or parcels of land assessed.	House of owner.	Amount of benefits assessed.
Lot 18, block 20, Columbia Height- subdivision.	John F. Waggaman....	$1,223.00
Lot 19, block 20, Columbia Heights subdivision.	John W. Paine..... ..	782.00
Lot 20, block 20, Columbia Heights subdivision.	J. B. Williamson, Jr...	576 00
Part lot 21, block 20, Col. Hts. subdiv., as follows: Beginning at N. E. cor., thence 23° 45′ east 55.45′, thence south 10° 38′ east to south line lot, thence S. W., along south line 10.7′, thence north 23° 45′ west 224.38′, thence 66° 15′ east 50′ to beginning.	Mary F. Ford, Jr	237.00
Part lot 22, block 20, Col. Hts. subdiv., described as follows: Beginning at the N. W. cor. of said lot, thence south 23° 45′ east 55.45′, thence north 10° 38 west to Whitney Ave., thence south 66° 15′ west 12.92′.	John J. Albright	11.00
Lot 23, block 20, Columbia Hts. subdiv., according to resubdivision by C. C. Kellogg.	Edgar C. Kellogg	2.00
Lot 24 of Edgar C. Kellogg's subdiv. of block 20 and bl'k 19 of Mt. Pleasant & Pleasant Plains.	Edgar C. Kellogg.....	25 00
Lot 25 of Edgar C. Kellogg's subdiv. of part of block 20, Columbia Hts.; block 19, Mt. Pleasant & Pleasant Plains.	E. C. Kellogg.....	45.00
Lot 26 of Edgar C. Kellogg's subdiv. of bl'k 20, Columbia Hts., and block 19, Mt. Pleasant & Pleasant Plains.	E. C. Kellogg.....	46.00
Lot 27 of Edgar C. Kellogg's subdiv. of parts of block 20, Col. Hts., & block 19, Mt. Pleasant & Pleasant Plains.	E. C. Kellogg	47.00
Lot 28 of Edgar C. Kellogg's subdiv. of parts of block 20, Col. Hts., & block 19, Mt. Pleasant and Pleasant Plains.	E. C. Kellogg	47.00
Lot 29, Edgar C. Kellogg's subdiv. of parts of bl'k 20, Col. Hts., & bl'k 19, Mt. Pleasant & Pleasant Plains.	E. C. Kellogg	48.00
Lot 30 of Edgar C. Kellogg's subdiv. of parts of bl'k 20, Col. Hts., & block 19, Mt. Pleasant & Pleasant Plains.	E. C. Kellogg	48.00
Lot 31 of Edgar C. Kellogg's subdiv. of parts of bl'k 20, Col. Hts., & block 19, Mt. Pleasant and Pleasant Plains.	E. C. Kellogg....	48.00
Lot 32 of Edgar C. Kellogg's subdiv. of parts of bl'k 20, Col. Hts., & bl'k 19, Mt. Pleasant and Pleasant Plains.	E. C. Kellogg	94.00
Part lot 1, block 21, Columbia Heights subdiv., described as follows: Beginning at S. W. cor. said lot, thence north, 146′, thence south 10° 38′ east to Kenyon street, thence west to beginning.	Sarah P. Grogan.....	180.00
Lot 2, block 21, Columbia Hts. subdivision.	Joseph H. Sweney.....	703.00
Lot 3, block 21, Columbia Heights subdivision.	Chas. Newell	625.00

59 *Schedule No.* 2—Cont'd.

Description of pieces or parcels of land assessed.	Name of owner.	Amount of benefits assessed.
Lot 4, block 21, Columbia Heights subdivision.	Chas. Newell	$469.00
Part of lot 5, block 21, Columbia Heights subdiv., described as follows: Beginning S. E. cor. of said lot, thence west 24.75′, thence north 10° 38′ west to west line of lot, thence by the west, north, and east line of said lot to place of beginning.	Eliza R. Cooper	185.00
Part of lot 6, block 21, Columbia Heights subdiv., described as follows: Beginning at N. E. cor. said lot, thence west 4.46′, thence south 10° 38′ east to east line of lot, thence to beginning.	Eliza R. Cooper.....	2.00
Part of lot 13, block 21, Columbia Heights subdiv., described as follows: Beginning at the S. E. cor. of said lot, thence west 4.46′ thence north 10° 38′ west to Dartmouth St., thence east 33.97′, thence to beginning.	Orville J. Moat	90.00
Lot 14, block 21, Columbia Heights subdivision.	L. C. F. Hugo.....	469.00
Lot 15, block 21, Columbia Heights subdivision.	C. Hooker.....	625.00
Lot 16, block 21, Columbia Heights subdivision.	Mellen V. Lane.....	703.00
Part of lot 17, block 21, Columbia Heights subdiv., described as follows: Beginning at the N. W. cor. of said lot, thence east 19.7′, thence south 10° 38′ east to south line of lot, thence along south line to west line, thence to beginning.	F. B. Brock.....	646.00
Lot 20, block 21, Columbia Heights subdiv., and of block 18, Todd & Brown's subdiv., being a resubdiv. by—	Frederick M. Price	349.00
Lot 21, block 21, Columbia Heights subdiv., and of block 18, Todd & Brown's subdiv., being a resubdiv. by—	Frederick M. Price. ...	419.00
Part of sublot 22, block 21, Col. Hts. subdiv., described as follows: Beginning on the south side of Dartmouth street, at 511.25′ from 13th street, thence south 10° 38′ east to south line of sublot 22, thence east to east line, thence along east line to Dartmouth St., thence west 28 feet to beginning.	Chas. A. Corey	251.00
Part of lot 1, block 22, Columbia Hts. subdiv., described as follows: Beginning at S. E. cor. of said lot, thence west 35.7′, thence north 10° 38′ west to north line of said lot, thence east 110.85′, thence to beginning.	Alfred L. White.	344.00
Part lot 11, block 22, Columbia Hts. subdiv., described as follows: Beginning at the N. E. cor. of said lot, thence west 12.82′, thence south 10° 38′ east to east line of lot, thence to beginning.	John W. Norris.....	13.00
Part of lot 12, block 22, Columbia Hts. subdiv., described as follows: Beginning at N. W. cor. of said lot, thence south 67.6′ thence south 10° 38′ east to south line of lot, thence east 33.21′, thence north 156.26′, thence west 50′ to beginning.	D. C	495.00
Lot 13, block 22, Columbia Heights subdivision.	D. C	625.00

60 *Schedule No.* 2—Cont'd.

Description of pieces or parcels of land assessed.	Name of owner.	Amount of benefits assessed.
Lot 14, block 22, Columbia Heights subdivision.	Chas. M. Carter..	$788.00
Part of lot 4, block 23, Columbia Hts. subdiv., described as follows: Beginning at N. E. cor. said lot, thence south 218.58′, thence west 44.64′, thence north 10° 38′ west to north line of lot, thence to beginning.	W. P. Kellogg & F. Cotton.	144.00
Part of lot 5, block 23, Columbia Hts. subdiv., described as follows: Beginning at N. W. cor. of said lot, thence south 218.58′, thence east 158.9′, thence north 10° 38′ west to north line of lot, thence direct to beginning.	W. P. Kellogg & F. Cotton.	4,489.00
Part of lot 17, block 23, Columbia Hts. subdiv., described as follows: Beginning at the N. W. cor. said lot, thence east 101′, thence south 10° 38′ to south line of lot, thence by south and west lines of said lot to the beginning.	Emily D. Berry.....	792.00
Part of lot 20, block 23, Columbia Hts. subdiv., described as follows: Beginning at the S. W. cor. of said lot, thence east 8.54′, thence north 10° 38′ west to west line of said lot, thence direct to beginning.	Phebe E. Sharpless. ...	1.00
Part of lot 21, block 23, Columbia Hts. subdiv., described as follows: Beginning at the N. W. cor. of said lot, thence east 13.23′, thence south 10° 38′ east to east line of said lot, thence south 45.42′, thence west 24.28′, thence north to beginning.	Phebe E. Sharpless.....	327.00
Sublot 22, block 23, Columbia Hts. subdivision.	Phebe E. Sharpless....	301.00
Sublot 23, block 23, Columbia Hts. subdivision.	Phebe E. Sharpless....	251.00
Sublot 24, block 23, Columbia Hts. subdivision.	Phebe E. Sharpless....	251.00
Sublot 25, block 23, Columbia Hts. subdivision.	Phebe E. Sharpless....	251.00
Sublot 26, block 23, Columbia Hts. subdivision.	Phebe E. Sharpless....	193.00
Sublot 27, block 23, Columbia Hts. subdivision.	Phebe E. Sharpless...	154.00
Sublot 28, block 23, Columbia Hts. subdivision.	Phebe E. Sharpless ..	116.00
Part of sublot 29, block 23, Col. Hts. subdiv., described as follows: Beginning at the N. E. cor. of said lot, thence west 25′, thence south 13.7, thence south 10° 38′ east to east line of said lot, thence north to beginning.	Phebe E. Sharpless....	60.00
Part of sublot 30, block 23, Col. Hts. subdiv., described as follows: Beginning at N. E. cor. said lot, thence west 2.58′, thence south 10° 38′ east to east line of lot, thence to beginning.	Phebe E. Sharpless....	1.00
Lot 2, block 24, Columbia Hts. subdivision..	John B. Lybrook.....	375.00
Lot 3, block 24, Columbia Hts. subdivision, east 35.6′ by its depth.	Alfred L. White.....	86.00
East 35.6′ by its depth of lot 20, block 24, Columbia Hts. subdivision.	M. M. Parker & P. Pulsifer, trustees.	87.00
Lot 21, block 24, Columbia Hts. subdivision..	M. M. Parker & P. Pulsifer, trustees.	378.00

61 *Schedule No.* 2—Cont'd.

Description of pieces or parcels of land assessed.	Name of owner.	Amount of benefits assessed.
Sublot 27, block 24, Columbia Hts. subdivision.	M. M. Parker & P. Pulsifer, trustees.	$741.00
Sublot 28, block 24, Columbia Hts. subdivision.	M. M. Parker & P. Pulsifer, trustees.	890.00
West 37.56′ by its depth of sublot 29, block 24, Columbia Heights subdivision.	M. M. Parker & P. Pulsifer, trustees.	852.00
West 32.9′ by its depth of sublot 30, block 24, Columbia Hts. subdivision.	M. M. Parker & P. Pulsifer, trustees.	740.00
Sublot 31, block 24, Columbia Heights subdivision.	M. M. Parker & P. Pulsifer, trustees.	924.00
Sublot 32, block 24, Columbia Heights subdivision.	M. M. Parker & P. Pulsifer, tr's.	770.00
Lot 1, block 25, Columbia Heights subdivision, west 35.6′ by its depth.	William Lampson.....	804.00
Lot 2, block 25, Columbia Heights subdivision.	Samuel C. Lovejoy.....	904.00
Lot 4, block 25, Columbia Heights subdivision.	Sallie N. Mackenzie ...	301.00
East 35.6′ *feet* by its depth of lot 5, block 25, Columbia Heights subdivision.	Henrietta A. Pixton...	65.00
East 35.6′ by its depth of lot 22, block 25, Columbia Heights subdiv.	.....	65.00
Lot 23, block 25, Columbia Heights subdivision.	Melita C. Spelhouse ..	301.00
Lot 24, block 25, Columbia Heights subdivision.	Isaac W. Nordlinger....	452.00
Lot 25, block 25, Columbia Heights subdivision.	Isaiah L. Blout.....	753.00
West 35.6′ by its depth of lot 26, block 25, Columbia Heights subdiv.	Henery F. Samstag.....	643.00
Sublot 34, block 25, Columbia Heights subdivision.	Leo J. Rosenthal.....	143.00
25*		
Sublot 35, block 24, Columbia Heights subdivision.	Leo J. Rosenthal.	143.00
Sublot 36, block 25, Columbia Heights subdivision.	Leo J. Rosenthal.....	143.00
West 35.6′ by its depth lot 1, block 26, Columbia Heights subdivision.	Cora Behrend.....	804.00
Lot 2, block 26, Columbia Heights subdivision.	Cora Behrend....	1,130.00
Lot 3, block 26, Columbia Heights subdivision.	E. J. Jeffreys & T. R. Willey. T. E. J.*	527.00
Lot 4, block 26, Columbia Heights subdivision.	F. F. Jeffreys & (T.*) F. R. Willey.	377.00
East 14.4′ by its depth of lot 5, block 26, Columbia Hts. subdivision.	Mary S. Logan.....	87.00
East 14.4′ by its depth of lot 21, block 26, Columbia Hts. subdivision.	Max Grief.....	65.00
Lot 22, block 26, Columbia Heights subdivision.	Cora Behrend.....	301.00
Lot 23, block 26, Columbia Heights subdivision.	Felix S. Rosenthal.....	452.00
Lot 24, block 26, Columbia Heights subdivision.	Abraham D. Prince....	904.00
West 35.6′ by its depth of lot 25, bl'k 26, Columbia Hts. subdivision.	Max Luchs	804.00

[*In pencil in copy.]

62 *Schedule No.* 2—Cont'd.

Description of pieces or parcels of land assessed.	Name of owner.	Amount of benefits assessed.
West 36.6 feet by its depth of lot 1, block 27, Columbia Heights subdivision.	John Sherman and A. M. Hoyt.	$1,517.00
Lot 2, block 27, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	2,130.00
Lot 3, block 27, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	1,811.00
Lot 4, block 27, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	1,811.00
East 14.4 feet by its depth of lot 5, block 27, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	521.00
East 14.4 feet by its depth of lot 26, block 27, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	521.00
Lot 27, block 27, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	1,810.00
Lot 28, block 27, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	1,810.00
Lot 29, block 27, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	2,130.00
West 35.6 feet by its depth of lot 30, block 27, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	1,517.00
West 85.6 feet by its depth of lot 1, block 28, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	4,687.00
Lot 2, block 28, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	4,769.00
East 14.4 feet by its depth of lot 3, block 28, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	697.00
East 14.4 feet by its depth of lot 14, block 28, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	657.00
Lot 15, block 28, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	4,559.00
West 85.6 feet by its depth of lot 16, block 28, Columbia Heights subdivision.	John Sherman & A. M. Hoyt.	4,591.00

Schedule No. 2—Continued.

Assessment of Benefits for the Extension of Eleventh Street Northwest.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 2, block 11, Todd & Brown's subdivision: Beginning at the N. W. corner of lot 2, thence north 83 degrees and 18.84 * 23 minutes east, thence south to the rear of said lot, thence south 83 degrees 23 minutes west to the east line of lot 3, thence north 6 degrees and 37 minutes west to the place of beginning.	Rose Wallach & Jesse Brown.	$30.00
All of lot 3, block 11, Todd & Brown's subdivision.	Rose Wallach & Jesse Brown.	244.00
All of lot 4, block 11, Todd & Brown's subdivision.	S. Dana Lincoln.....	319.00
All of lot 5, block 11, Todd & Brown's subdivision.	Julia D. Simmons.....	450.00

(* In pencil in copy.)

63 *Schedule No.* 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 6, block 11, Todd & Brown subdivision: Beginning at the N. E. corner of said lot, thence S. 6 degrees and 37 minutes E. 150 feet to the rear of said lot, thence S. 83 degrees and 23 minutes west 50 feet to the east line of 11th St. extended, thence north along the east side of 11th street to the north line of lot 6, thence north 83 degrees 23 minutes east 32.53 feet to the place of beginning.	Julia D. Simmons.....	$681.00
Part of lot 2, block 12, Todd and Brown subdivision: Beginning at the S. W. corner of said lot, thence north 6 degrees and 37 minutes west 150 feet to the rear of said lot, thence north 83 degrees and 23 minutes east 43.31 feet, thence south to the south line of said lot, thence south 83 degrees and 23 minutes west 25.83 feet to the place of beginning.	T. G. H. Todd.....	104.00
All of lot 3, block 12, Todd & Brown subdivision.	John W. Schaefer.....	243.00
All of lot 4, block 12, Todd & Brown subdivision.	John W. Schaefer.....	318.00
All of lot 5, block 12, Todd & Brown subdivision.	Rose Wallach & Jesse Brown.	488.00
Part of lot 6, block 12, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees and 23 minutes west 25.54 feet to the east side of 11th St. extended, thence with the east line of 11th St. to the rear of said lot, thence north 83 degrees 23 minutes east 8.06 feet, thence south 6 degrees 37 minutes east 150 feet to the beginning.	S. Dana Lincoln.....	252.00
Part of lot 7, block 12, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees and 23 minutes west 8.06 ft. to the east line of 11th St. extended, thence with said line to its intersection with the east line of lot 7, thence south 6 degrees 37 minutes east 69.08 ft. to the place of beginning.	Rose Wallach & Jesse Brown.	28.00
Part of lot 8, block 12, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees 23 minutes west 50 ft., thence north 6 degrees 37 minutes west to the east line of 11th St., thence with said line to the north line of lot 8, thence north 83 degrees 23 minutes east 40.57 ft. to the beginning.	Rose Wallach & Jesse Brown.	640.00
All of lot 9, block 12, Todd & Brown subdivision.	Chas. S. Bundy.....	338.00
All of lot 10, block 12, Todd & Brown subdivision.	Robert F. Elliott.....	243.00
All of lot 11, block 12, Todd & Brown subdivision.	Chas. S. Bundy.....	140.00

64 *Schedule No.* 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 12, block 12, Todd and Brown subdivision: Beginning at the northwest corner of said lot, thence north 83 degrees 23 minutes east 10 ft. and 8 tenths of a foot, thence south to the south line of said lot, thence with said line 4.97 ft. to the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft. to the beginning.	Geo. J. Mueller	$1.00
Part of lot 13, block 12, Todd & Brown's subdivision: Beginning at the northwest corner of said lot, thence north 83 degrees 23 minutes east 4.97 ft., thence south to intersect with the west line of said lot, thence north 6 degrees 37 minutes west 42.65 ft. to the beginning.	Bettie Newman	1.00
Part of lot 1, block 13, Todd and Brown subdivision: Beginning at the southwest corner of said lot, thence north 8 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 23.61 ft., thence south to the south line of the said lot, thence south 83 degrees 23 minutes west 17.78 ft. to the place of beginning.	S. D. Lincoln	1.00
All of lot 2, block 13, Todd & Brown subdivision.	R. P. Fletcher	150.00
All of lot 3, block 13, Todd & Brown subdivision.	S. D. Lincoln.....	263.00
All of lot 4, block 13, Todd & Brown subdivision.	R. Wallach & J. Brown ..	375.00
Part of lot 5, block 13, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees 23 minutes west 33.59 ft. to the east line of 11th St. extended, thence with said line to the rear of said lot, thence north 83 degrees 23 minutes east 16.10 ft., thence south 6 degrees 37 minutes east 150 ft. to the beginning.	R. Wallach & J. Brown ..	410.00
Part of lot 7, block 13, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees 23 minutes 16.10 ft. to the east line of 11th St. extended, thence with said line to its intersection with the east line of said lot, thence south 6 degrees 37 minutes east 138.15 ft. to the place of beginning.	G. S. Cooper.	111.00
All of lot 8, block 13, Todd & Brown subdivision.	R. Wallach & J. Brown ..	674.00
All of lot 9, block 13, Todd & Brown subdivision.	A. J. Miller.....	263.00
All of lot 10, block 13, Todd & —— subdivision.	J. Lang & W. G. Gray...	168.00
All of west 16 ft. of lots 11 & 12, block 13, Todd & Brown subdivision.	A. B. Prigg	.60

65 *Schedule No.* 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of 32 ft. of lots 11 and 12, block 13, Todd and Brown subdivision: Beginning on the north line of lot 11 16 ft. from the northwest corner of said lot, thence south 6 degrees 37 minutes east 100 ft. to the south line of lot 12, thence north 83 degrees 23 minutes east 25.07 ft., thence north to intersect with the east side of said part of lots 11 and 12, thence north 6 degrees 37 minutes west to the north line of lot 11, thence south 83 degrees 23 minutes west 32 ft. to the beginning.	N. A. Poole.....	$1.00
Part of 16 ft. of lots 11 and 12, block 13, Todd & Brown subdivision: Beginning at the north line of lot 11 48 ft. from the northwest corner of said lot, thence north 83 degrees 23 minutes east 4.75 ft., thence south to intersect with the west line of the said part of lots 11 and 12, thence north 6 degrees 37 minutes west to the beginning.	S. J. Cunningham.....	.40
Part of lot 13, block 13, Todd & Brown subdivision: Beginning at the northwest corner of said lot, thence north 83 degrees 23 minutes east 41.07 ft., thence south to the south line of the said lot, thence with said line 35.26 ft. to the southwest corner of the said lot, thence north 6 degrees 37 minutes west 50 ft. to the beginning.	R. Wallach & J. Brown...	1.00
Part of the north half of lot 14, block 13, Todd & Brown subdivision: Beginning at the northwest corner of the said part, thence north 83 degrees 23 minutes east 35.26 ft., thence south to the south line of the said part, thence south 83 degrees 23 minutes west 32.35 ft., thence north 6 degrees 37 minutes west 25 ft. to the beginning.	F. A. Daley.....	1.00
Part of the south part of lot 14, block 13, Todd and Brown subdivision: Beginning at the northwest corner of the said part, thence north 83 degrees 23 minutes east 32.35 ft., thence south to the south line of the said part, thence south 83 degrees 23 minutes west 29.44 ft., thence north 6 degrees 37 minutes west 25 ft. to the beginning.	S. A. Duchesne	1.00
Part of lot 15, block 13, Todd & Brown subdivision: Beginning at the northwest corner of the said lot, thence north 83 degrees 23 minutes east 29.44 ft., thence south to the south line of the said lot, thence 83 degrees 23 minutes west 23.61 ft., thence north 6 degrees 37 minutes west 50 ft. to the beginning.	R. Wallach and J. Brown.	1.00

66 *Schedule No. 2—Continued.*

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 1, block 14, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83degrees 23minutes east 65.55 ft., thence south to the south line of said lot, thence south 83 degrees 23 minutes west 59.73 ft. to the beginning.	S. D. Lincoln	$1.00
All of lot 2, block 14, Todd & Brown subdivision.	J. B. Laybrook	150.00
All of lot 3, block 14, Todd & Brown subdivision	S. D. Lincoln	300.00
Part of lot 4, block 14, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees 23 minutes west 41.64 ft. to the east line of 11th St. extended, thence with said line to the rear of said lot, thence north 83 degrees 23 minutes east 24.17 ft., thence south 6 degrees 37 minutes east 150 ft. to the beginning.	R. Wallach & J. Brown	519.00
Part of lot 7, block 14, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees 23 minutes west 24.17 ft. to the east line of 11th St., thence with said line to the north line of said lot, thence north 83 degrees 23 minutes east 6.70 ft., thence south 6 degrees 37 minutes east 150 ft. to the beginning.	R. Wallach & J. Brown	208.00
All of lot 8, block 14, Todd & Brown subdivision.	T. H. G. Todd	525.00
All of lot 9, block 14, Todd & Brown subdivision.	M. C. Sullivan	263.00
Part of lot 10, block 14, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 94.67 ft., thence south to the south line of said lot, thence south 83 degrees 23 minutes west 88.85 ft. to the beginning.	R. Wallach & J. Brown	1.00
Part of lot 11, block 14, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 88.85 ft., thence south to the south line of said lot, thence south 83 degrees 23 minutes west 83.02 ft. to the place of beginning.	R. Wallach & J. Brown	1.00
Part of lot 12, block 14, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 83.02 ft., thence south to the south line of the said lot, thence south 83 degrees 23 minutes west 77.20 ft. to the beginning.	S. A. Reeves, north half.. N. A. Poole, south half...	0.50 0.50

67 *Schedule No.* 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 13, block 14, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 77.20 ft., thence south 83 degrees 23 minutes west 71.38 ft. to the beginning.	J. W. Morris.....	$1.00
Part of lot 14, block 14, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 71.38 ft., thence south to the south line of the said lot, thence south 83 degrees 23 minutes west 65.55 ft. to the beginning.	N. A. Poole.....	1.00
Part of lot 1, block 15, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 91.52 ft., thence south 10 degrees 38 minutes east to the south line of the said lot, thence south 83 degrees 23 minutes west 95.08 — to the beginning.	R. W. J. Brown	1.00
All of lot 2, block 15, Todd & Brown subdivision.	R. B. Bare	263.00
All of lot 3, block 15, Todd & Brown subdivision.	J. A. W. Morris	675.00
Part of lot 4, block 15, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees 23 minutes west 5.44 ft. to the east line of 11th St. extended, thence north 10 degrees 38 minutes west with said line to the rear of lot 5, thence north 83 degrees 23 minutes east 16.13 ft., thence south 6 degrees 37 minutes east 150 ft. to the beginning.	R. W. J. Brown..... ..	162.00
Part of lot 5, block 15, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees 23 minutes west 16.13 ft. to east line of 11th St. extended, thence with said line north 10 degrees 38 minutes west to the north line of said lot, thence north 83 degrees 23 minutes east 26.82 ft., thence south 6 degrees 37 minutes east 150 ft. to the beginning.	A. M. Cocks..	322.00
All of lot 6, block 15, Todd & Brown subdivision.	R. W. J. Brown	638.00
All of lot 7, block 15, Todd & Brown subdivision.	S. D. Lincoln	243.00
Part of lot 8, block 15, Todd & Brown subdivision: Beginning at the southwest corner of the said lot, thence north 6 degrees 37 minutes west 50 ft. to the north line of the said lot, thence north 83 degrees 23 minutes east 73.70 ft., thence south 10 degrees 38 minutes east to the south line of the said lot, thence south 83 degrees 23 minutes west 77.26 ft. to the beginning.	A. Lambert....	1.00

68 *Schedule No.* 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 9, block 15, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 77.26 ft., thence south 10 degrees 38 minutes east to the south line of the said lot, thence south 83 degrees 23 minutes west 80.82 ft. to the beginning.	N. A. Poole.....	$1.00
Part of lot 10, block 15, Todd & Brown subdivision: Beginning at the southwest corner of the said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 80.82 ft., thence south 10 degrees 38 minutes east to the south line of the said lot, thence south 83 degrees 23 minutes west 84.39 ft. to the beginning.	W. J. Leishear.....	1.00
Part of lot 11, block 15, Todd and Brown subdivision: Beginning at the southwest corner of the said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 84.39 ft., thence south 10 degrees 38 minutes east to the south line of the said lot, thence south 83 degrees 23 minutes west 87.96 ft. to the place of beginning.	S. D. Lincoln.....	1.00
Part of lot 12, block 15, Todd and Brown subdivision: Beginning at the southwest corner of the said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 87.96 ft., thence south 10 degrees 38 minutes east to the south line of the said lot, thence south 83 degrees 23 minutes west 91.52 ft. to the beginning.	R. Wallach & J. Brown ..	1.00
Part of lot 1, block 16, Todd & Brown subdivision: Beginning at the southwest corner of the said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 65.89 ft., thence south 10 degrees 38 minutes east to the south side of said lot, thence south 83 degrees 23 minutes west 69.55 ft. to the beginning.	J. Seibel.....	1.00
All of lot 2, block 16, Todd & Brown subdivision.	Anna North.....	300.00
All of lot 3, block 16, Todd & Brown subdivision.	Anna North	638.00
Part of lot 4, block 16, Todd & Brown subdivision: Beginning at the southeast corner of the said lot, thence south 83 degrees 23 minutes west 30.97 ft. to the east line of 11th St., thence north 10 degrees 38 minutes west with said line to the rear of said lot, thence north 83 degrees 23 minutes east 41.94 ft., thence south 6 degrees 37 — east 150 ft. to the beginning.	S. D. Lincoln	575.00

69 *Schedule No.* 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 6, block 16, Todd & Brown subdivision: Beginning at the southwest corner of the said lot, thence north 6 degrees 37 minutes west 282.35 ft. to the north line of said lot, thence north 83 degrees 23 minutes east 6.85 ft. to the west line of 11th St. extended, thence with said line south 10 degrees 38 minutes east to the rear of said lot, thence with said rear line 28.28 — to the place of beginning.	Rose Wallach & Jesse Brown.	$246.00
All of lot 7, block 16, Todd & Brown subdivision.	Avarilla Lambert	1,397.00
All of lot 8, block 16, Todd & Brown subdivision.	Thos. B. Sanders.....	949.00
All of lot 9, block 16, Todd & Brown subdivision.	Wm. M. Stuart	658.00
Part of lot 10, block 16, Todd & Brown subdivision: Beginning at the northwest corner of said lot, thence north 83 degrees 23 minutes east 37.94 ft., thence south 6 degrees 37 minutes east 259.20 ft. to the rear of said lot, thence with said rear line 25.61 ft., thence north 10 degrees 38 minutes west to intersect with the west line of said lot, thence with said west line to the beginning.	John W. Morris	263.00
Part of lot 11, block 16, Todd & Brown subdivision: Beginning at the southeast corner of the said lot, thence south 83 degrees 23 minutes west 41.94 ft. to the east line of 11th St., thence with said line north 10 degrees 38 minutes west 110.09 ft. to intersect with west line of said lot, thence north 6 degrees 37 minutes west 39.91 ft., thence north 83 degrees 23 minutes east 50 ft., thence south 6 degrees 37 minutes east 150 ft. to the beginning.	S. D. Lincoln.....	741.00
All of lot 12, block 16, Todd & Brown subdivision.	R. Wallach & J. Brown ..	488.00
All of lot 13, block 16, Todd & Brown subdivision.	R. Wallach & J. Brown ..	244.00
Part of lot 14, block 16, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft. to the north line of said lot, thence north 83 degrees 23 minutes east 47.60 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes west 51.26 ft. to the beginning.	O. Gasch	1.00
Part of lot 15, block 16, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft. to the north line of said lot, thence north 83 degrees 23 minutes east 51.26 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes west 54.91 ft. to the beginning.	O. Gasch	1.00

70 *Schedule No.* 2.—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 16, block 16, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft. to the north line of said lot, thence north 83 degrees 23 minutes east 54.91 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes west 58.56 ft. to the beginning.	C. Mytinger.....	$1.00
Part of lot 17, block 16, Todd & Brown subdivision: Beginning at the southwest corner of the said lot, thence north 6 degrees 37 minutes west 50 ft. to the north line of said lot, thence north 83 degrees 23 minutes east 58.56 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence S. 83 degrees 23 minutes west 62.23 ft. to the beginning.	C. Mytinger.....	1.00
Part of lot 18, block 16, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft. to the north line of said lot, thence north 83 degrees 23 minutes east 62.23 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes west 65.89 ft. to the beginning.	S. D. Lincoln.....	1.00
Part of lot 5, block 16, Todd & Brown subdivision: Beginning at the northeast corner of said lot, thence south 6 degrees 37 minutes east 39.91 ft. to intersect the east line of 11th St. ext., thence north 10 degrees 38 minutes west with said line to the north line of lot 5, thence north 83 degrees 23 minutes east 2.92 ft. to the beginning.	S. D. Lincoln.....	6.00
Part of lot —, block 17, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft. to the north line of said lot, thence north 83 degrees 23 minutes east 40 45 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes 44.10 ft. to the beginning.	L. M. Saunders.....	1.00
All of lot 2, block 17, Todd & Brown subdivision.	A. S. Johnson.....	244.00
All of lot 3, block 17, Todd & Brown subdivision.	E. B. Olmstead.....	488.00
All of lot 4, block 17, Todd & Brown subdivision.	C. E. Vreeland.....	638.00
Part of lot 5, block 17, Todd & Brown subdivision: Beginning at the southeast corner, thence south 83 degrees 23 minutes west 7.28 ft., to the east line of 11th St. extended, thence with said line north 10 degrees 38 minutes west to north line of said lot, thence north 83 degrees 23 minutes east 18.22 ft. to east line of said lot, thence south 6 degrees 37 minutes east 150 ft. to the beginning.	Rose Wallach & Jesse Brown.	191.00

71 *Schedule No.* 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 6, block 17, Todd & Brown subdivision: Beginning at the southwest corner of the said lot, thence north 6 degrees 37 minutes west 34.28 ft. to intersection of west line of 11th St. extended, thence south 10 degrees 38 minutes east with said line of 11th St. to south line of said lot, thence south 83 degrees 23 minutes west 2.50 ft. to the beginning.	Rose Wallach & Jesse Brown.	$4.00
Part of lot 7, block 17, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees 23 minutes west 50 ft. to west line of said lot, thence with said line north 6 degrees 37 minutes west 150 ft. to north line of said lot, thence north 83 degrees 23 minutes east to west line of 11th St. ext'd, thence with said line south 10 degrees 38 minutes east to intersection of east line of said lot, thence south 6 degrees 37 minutes east 34.28 ft. to the beginning.	Rose Wallach & Jesse Brown.	1,052.00
All of lot *of* 8, block 17, Todd & Brown subdivision.	Edward H. Booth..	113.00
Part of lot 9, block 17, Todd & Brown subdivision: Beginning at the northwest corner of said lot, thence north 83 degrees 23 minutes east 17.24 ft. to west line of 11th St. ext'd, thence with said line south 10 degrees 38 minutes east to south line of said lot, thence south 83 degrees 23 minutes west to west line of said lot, thence with said line 162.62 ft. to the beginning.	Rose Wallach & Jesse Brown.	1,220.00
Part of east half of lot 11, block 17, Todd & Brown subdivision: Beginning at the southeast corner of said lot, thence south 83 degrees 23 minutes west 18″ ″ ft. to the east line of 11th St. ext'd, thence with said line to intersect with the west line of the east half of said lot, thence north 6 degrees 37 minutes west 57.04 ft., thence north 83 degrees 23 minutes east 25 ft., thence south 6 degrees 37 minutes E. 150 ft. to the beginning.	A. B. Raffin	377.00
Part of the west half of lot 11, block 17, Todd & Brown subdivision: Beginning at the northeast corner of said west half, thence south 6 degrees 37 minutes east 57.04 ft. to intersect with the east line of 11th St. ext'd, thence north 10 degrees 38 minutes west to the north line of said lot, thence north 83 degrees 23 minutes east 4.16 ft. to the beginning.	D. Edmund	12.00
All of lot 12, block 17, Todd & Brown subdivision.	A. S. Miller.	488.00
All of lot 13, block 17, Todd & Brown subdivision.	A. S. Miller.....	413.00
All of the west 16.67 ft. of lot 14, block 17, Todd & Brown subdivision.	W. W. Metcalf.....	81.00
All of the center 16.67 ft. of lot 14, block 17, Todd & Brown subdivision.	T. R. Strothers.	81.00

72 *Schedule No.* 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
All of the east 16.67 ft. of lot 14, block 17, Todd & Brown subdivision.	C. H. Ware....	$82.00
Part of lot 15, block 17, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 22.1" ft., thence south 10 degrees 38 minutes — to the south line of said lot, thence south 83 degrees 23 minutes west 25.86 ft. to the beginning.	W. Nordlinger.....	1.00
Part of lot 16, block 17, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 25.86 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes west 29.51 ft. to the beginning.	Michael Faherty.	1.00
Part of lot 17, block 17, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 20.51 ft., thence south 10 degrees 38 minutes east to the south line of the said lot, thence south 83 degrees 23 minutes west 33.16 ft. to the beginning.	Rose Wallach & Jesse Brown.	1.00
Part of lot 18, block 17, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 33.16 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence with said line 36.80 ft. to the beginning.	Rose Wallach & Jesse Brown.	1.00
Part of the north 16.67 ft. of lot 19, block 17, Todd & Brown subdivision: Beginning at the N. W. corner of said part, thence north 83 degrees 23 minutes east 36.80 ft., thence south 10 degrees 38 minutes east to the south line of said part, thence south 83 degrees 23 minutes west 38.01 ft. to the beginning.	John T. Thurston..	.33
Part of the center 16.67 ft. of lot 19, block 17, Todd & Brown subdivision: Beginning at the southwest corner of said part, thence north 6 degrees 37 minutes west 16.67 ft., thence north 83 degrees 23 minutes east 38.01 ft., thence south 10 degrees 38 minutes east to south line of said part, thence south 83 degrees 23 minutes west 39.22 ft. to the beginning.	Chas. P. Scott.....	.33
Part of the south 16.67 ft. of lot 19, block 17, Todd & Brown subdivision: Beginning at the S. W. corner of the said part, thence north 6 degrees 37 minutes west 16.67 ft., thence north 83 degrees 23 minutes east 39.22 ft., thence south 10 degrees 38 minutes east to the south line of the said lot; thence with said line 40.45 ft. to the beginning.	Thaddeus Fields.....	.34

Schedule No. 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
All of lot 23, block 17, Todd & Brown subdivision.	H. C. & A. G. Matchetts..	$182.00
All of lot 24, block 17, Todd & Brown subdivision	W. D. West & C. J. McCubbin.	159.00
All of lot 25, block 17, Todd & Brown subdivision.	Geo. C. Johnson.....	136.00
All of lot 26, block 17, Todd & Brown subdivision.	D. S. Williamson.....	106.00
All of lot 1, block 18, Todd & Brown subdivision: Beginning at S. W. corner of said lot, thence north 6 degrees 37 minutes west 50 ft., thence north 83 degrees 23 minutes east 14.15 ft., thence south 10 degrees 38 minutes east to the south line of *if* said lot, thence with said line 17.80 ft. to the beginning.	Rose Wallach & Jesse Brown.	1.00
All of lot 2, block 18, Todd & Brown subdivision.	Alice J. Sorrells.....	244.00
All of lot 3, block 18, Todd & Brown subdivision.	Alice J. Sorrells	338.00
All of lot 4, block 18, Todd & Brown subdivision.	Rose Wallach & Jesse Brown.	488.00
Part of lot 5, block 18, Todd & Brown subdivision: Beginning at the S. E. corner of said lot, thence south 83 degrees 23 minutes west 33.57 — to east line of 11th St. ext'd, thence with said line north 10 degrees 38 minutes west to north line of said lot, thence north 83 degrees 23 minutes east to east line of said lot, thence south 6 degrees 37 minutes east 150 ft. to the beginning.	Rose Wallach & Jesse Brown.	700.00
All of the west 16.67 ft. of lot 7, block 18, Todd & Brown subdivision.	Richard W. Williams ..	106.00
All of the center 16.67 ft. of lot 7, block 18, Todd & Brown subdivision.	H. Lomax.....	106.00
All of east 16.67 ft. of lot 7, block 18, Todd & Brown subdivision.	D. Catlett..	107.00
All of west 4.16 ft. of lot 8, block 18, Todd & Brown subdivision.	David Catlett	13 00
All of *lot* 16.67 ft. of lot 8, block 18, Todd & Brown subdivision, 4.16 ft. from the west line of said lot.	G. Ware.....	57.00
All of the 16.67 ft. of lot 8, block 18, Todd & Brown subdivision, 12.5 feet from the east line of said lot.	D. Crawford.....	57.00
All of the east 12.5 ft. of lot 8, block 18, Todd & Brown subdivision.	J. T. Armes.....	40.00
Part of lot 10, block 18, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 43.81 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes west 3.2 ft. to the beginning.	John F. Finn, Benj. F. Morrison & Robert H. R. Roberts.	1.00

74 *Schedule No.* 2—Continued.

Description of piece or parcel benefited.	Owner.	Am't of assessment.
Part of lot 11, block 18, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft. to the north line of said lot, thence north 83 degrees 23 minutes east 3.2 ft., thence south *south* 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes west 6.85 ft. to the beginning.	T. H. G. Todd.....	1.00
Part of lot 12, block 18, Todd & Brown subdivision: Beginning at the southwest corner, thence north 6 degrees 37 minutes west 50 ft. to the north line of said lot, thence north 83 degrees 23 minutes east 6.85 ft., thence south 10 degrees 38 minutes east to south line of said lot, thence south 83 degrees 23 minutes west 10.5 ft. to the beginning.	T. H. G. Todd.	$1.00
Part of lot 13, block 18, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence north 6 degrees 37 minutes west 50 ft. to north line of said lot, thence north 83 degrees 23 minutes east 10.5 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes west 14.15 ft. to the beginning.	R. Wallach & J. Brown..	1.00
Part of lot 7, block 19, Todd & Brown subdivision: Beginning at the southwest corner of said lot, thence northeasterly along the rear line of said lot to the northwest corner, thence north 83 degrees 23 minutes east 2.85 ft., thence south 10 degrees 38 minutes east to the south line of said lot, thence south 83 degrees 23 minutes west to the beginning.	J. M. Morris.....	1.00
Unsubdivided tract.....	Garfield hospital.....	2,000.00
Tract of land bounded as follows: Beginning at the S. E. cor. of lot 7, block 11, Todd & Brown's subdivision, thence south to Florida avenue, thence eastwardly along north side of Florida avenue to Garfield Hospital grounds, thence northwardly along west line of Garfield Hospital grounds, and with said line produced to south line, block 11, Todd & Brown's subdiv., thence westwardly along south line of block 11 to the beginning.	Louis H. Schneider, Julius Schneider, Carrie A. Schneider, George W. Schneider, Walter E. Schneider, & Mary E. Cissel.	19,500.00
Tract bounded by block 11, Todd & Brown's subdiv. on the north, on the west by grounds of Schneider heirs, on the south by Garfield Hospital grounds, on the east by a line parallel and distant 245 feet from the center line of 11th street extended.	.....	25.00

Supreme Court of the District of Columbia.

I, John R. Young, clerk of the supreme court of the District of Columbia, do hereby certify, in obedience to the writ of certiorari hereto attached and returned herewith, that the foregoing is a true and correct copy of "the verdict and award of the jury" In the matter of the extension of Eleventh street northwest, No. 556, District docket, containing the words and figures omitted from the record heretofore transmitted to the Court of Appeals of the District of Columbia.

75 In testimony whereof I hereunto subscribe my name and affix the seal of the said supreme court the 16th day of May, A. D. 1901.

Seal Supreme Court of the District of Columbia.

JOHN R. YOUNG, *Clerk.*

(Endorsed:) No. 1039. Henry B. F. Macfarland *et al.*, Commissioners, D. C., appellants, *vs.* Eugene Byrnes *et al.* Return to writ of certiorari. Court of Appeals, District of Columbia. Filed May 16, 1901. Robert Willett, clerk.

76 THURSDAY, *May 16th, A. D.* 1901.

JOHN B. WIGHT, JOHN W. ROSS, and LANSING H. BEACH, Commissioners of the District of Columbia, Appellants, *vs.* EUGENE BYRNES ET AL. } No. 1039.

The expiration of the term of office of John B. Wight, one of the appellants herein, and the appointment of Henry B. F. Macfarland as his successor as Commissioner of the District of Columbia, having been suggested, it is upon motion of Mr. C. A. Brandenburg, of counsel for the appellants, now here ordered by the court that the said Henry B. F. Macfarland, Commissioner of the District of Columbia, be, and he is hereby, made a party appellant in this cause.

TUESDAY, *December 10th, A. D.* 1901.

HENRY B. F. MACFARLAND, JOHN W. ROSS, and LANSING H. Beach, Commissioners of the District of Columbia, Appellants, *vs.* EUGENE BYRNES ET AL. } No. 1039.

The expiration of the term of office of Lansing H. Beach, one of the appellants herein, and the appointment of John Biddle as his successor as Commissioner of the District of Columbia, having been suggested, it is upon motion of Mr. A. B. Duvall, of counsel for the appellants, now here ordered by the court that the said John Biddle, Commissioner of the District of Columbia, be, and he is hereby, made a party appellant in this cause.

77 WEDNESDAY, *January 8th, A. D.* 1902.

HENRY B. F. MACFARLAND, JOHN W. ROSS, and JOHN Biddle, Commissioners of the District of Columbia, Appellants, vs. EUGENE BYRNES ET AL. } No. 1039.

The death of John Sherman one of the appellees herein having been suggested, it is upon motion of Mr. Leo Simmons of counsel for the appellees, now here ordered by the court that Myron M. Parker and Winfield S. Kerr, executors of John Sherman, deceased, be, and they are hereby made parties appellees in this cause.

WEDNESDAY *March 5th, A. D.* 1902.

HENRY B. F. MACFARLAND, JOHN W. ROSS, and JOHN Biddle, Commissioners of the District of Columbia, Appellants, vs. EUGENE BYRNES ET AL. } No. 1039.

The argument in the above-entitled cause was commenced by Mr. A. B. Duvall, attorney for the appellants, and was continued by Mr. Leo Simmons, attorney for the appellees, and was concluded by Mr. A. B. Duvall, attorney for the appellants.

78 HENRY B. F. MACFARLAND, JOHN W. ROSS, and John Biddle, Commissioners of the District of Columbia, Appellants, vs. EUGENE BYRNES ET AL. } No. 1039.

Opinion.

Mr. Justice MORRIS delivered the opinion of the court:

By an act of Congress approved March 3, 1899, entitled "An act to extend S street, in the District of Columbia, and for other purposes" (30 Stat. 1344), it was provided not only that S street should be extended, but also Eleventh street northwest, first in a line due north from Florida avenue to Harvard street, and thence slightly curving to the northwest to Lydecker avenue, with a width throughout of 90 feet; and that, in respect of the land to be acquired therefor by condemnation and the damages to be awarded on account of such land to the owners, at least one-half thereof should be assessed by the jury of condemnation against those parcels of land which abutted on the line of the street so to be opened and extending to a depth of 200 feet from the building lines of the street as extended. It was further provided by the act that the proceedings for condemnation should be under the provisions of chapter 11 of the Revised Statutes of the United States relating to the District of Columbia; that the sum to be assessed against each lot should be determined and designated by the jury; that, in determining the

amount to be assessed against any particular piece of ground, the jury should take into consideration the situation of the lots and the benefits they might receive from the opening of the street; and that the assessments when confirmed by the court should be a lien on the lands assessed, and be collected as special-improvement taxes. It was directed by the act that the proceedings of condemnation should be instituted by the Commissioners of the District by filing a petition in the supreme court of the District of Columbia sitting as a district court.

The Commissioners accordingly filed their petition on May 31, 1899; and thereupon, after due notice, a jury of seven persons was impaneled, received instructions from the court as to its duties, proceeded to assess the damages and benefits, and in due time returned its verdict and award into court. In the ascertainment of such damages and benefits, it seems to have taken testimony, although no part of such testimony appears in the record before us. An order of ratification *nisi* of the verdict and award was passed, and due notice seems to have been given to all the parties in interest. A large number of these appeared and filed exceptions to the award.

At this time there was pending in this court the case of Davidson *v.* Wight, 16 D. C. App. 371, in which, with special reference to the extension of S street, the question of the validity and constitutionality of the act of Congress had been raised. Soon afterwards, on April 25, 1900, we decided that case, and held, in pursuance of the decision of the Supreme Court of the United States in the case of Norwood *v.* Baker, 172 U. S. 269, that the act of Congress was unconstitutional and void, and also that for want of proper notice the proceedings were invalid. Pending an appeal from the decision of this court to the Supreme Court of the United States, a further act of Congress was passed on June 6, 1900, entitled "An act for the extension of Columbia road east of Thirteenth street, and for other purposes" (31 Stat. 665), by the twelfth section of which it was provided that the Commissioners of the District should make application to the supreme court of the District of Columbia for a final ratification and confirmation of the awards of the jury in the matter of the extension of Eleventh street; that the awards, when ratified, should be paid in accordance with the provisions of the act which
79 authorized the extension; and that, if for any reason the assessments for benefits should be declared void, the Commissioners should make application to the court to reassess them in accordance with the provisions of this act of June 6, 1900, which provided elaborately therefor.

The Commissioners accordingly, on June 26, 1900, moved in the supreme court of the District to overrule all the exceptions filed against the verdict of the jury, and that the assessments and the awards for damages should both be ratified and confirmed. The court thereupon confirmed the award for damages, but vacated the assessments for benefits and declared them void. It is conceded that this latter part of the decision was based exclusively on the decision of this court in the case of Davidson *v.* Wight, which held

the act of Congress to be unconstitutional in respect to the provisions for the assessment of benefits.

Appeal was taken to this court. Within the time allowed for filing the transcript in this court, the time for so doing was extended by an order of the supreme court of the District to December 1, 1900. Again, within the period of the extension so granted, there was a further extension, by order passed on November 28, 1900, until January 1, 1901. The transcript was filed here during this second period of extension, on December 20, 1900. Thereafter, there were several postponements of the case in this court; and then, on May 6, 1901, a motion to dismiss the appeal was filed, based upon the ground that the court below was without authority to grant the second extension of time, and that therefore the record was not filed in due time in this court. The motion to dismiss the appeal was postponed to the hearing on the merits.

It remains to be stated that the Supreme Court of the United States, on April 29, 1901, reversed the decision of this court in the case of Davidson *v.* Wight, and held the act of Congress in question to be a constitutional and valid enactment. 181 U. S. 371.

1. With reference to the motion to dismiss the appeal in this case on the ground that the transcript of record was not filed here in time, we find no merit in the proposition that the jurisdiction of the court below to grant an extension of time was exhausted by the first extension granted. We have decided that, after the lapse of the time prescribed by our rules for filing the transcript of record here, or after the lapse of any extension of such time granted during the first period, the court below is without authority to grant any further extension. District of Columbia *v.* Roth, 18 D. C. App. 547. But we find no good reason for refusing that authority to the court as long as the cause remains within its jurisdiction; and the cause remains within its jurisdiction for this purpose during the whole period of the extension. Rule 15 of the rules of this court, which confers the authority under which the court below has assumed to act, provides that "it shall be the duty of the appellant, within forty days from the time of the appeal entered and perfected in the court below, unless such time for special and sufficient cause be extended by the court below, or the judge thereof by whom the judgment, decree or order may have been rendered, such time to be definite and fixed, to produce and file with the clerk of this court a transcript of the record of such cause." It is argued that this means only one extension, because otherwise the court below might grant extensions from time to time indefinitely, and the time of extension would therefore not be "definite and fixed." But that this is not the meaning of the rule seems to us to be very plain, when it is remembered that under the authority to grant one extension, if only one is granted, the court could allow as long delay as by many extensions. The rule is intended for the purpose of justice. It confers a discretionary power to grant an extension for good and sufficient cause; and it is not to be presumed that the discretion will be abused. The "*good and sufficient cause*" may well continue beyond the first period of extension. We may assume that there

was no reason for urgency in this case, and that there may have been a tacit understanding between the parties not to push it until a decision should be had from the Supreme Court in the case of Davidson *v.* Wight. But whatever the good and sufficient cause may have been, we are of opinion that it was not the purpose of the rule, and that it is not its requirement, to limit the court below to one extension of time; provided of course, that any second extension is made, as in this case, within the lifetime of the first extension; and provided, also, that the length of the extension and the number of the extensions is not unreasonable.

The motion to dismiss the appeal must therefore be denied.

2. Coming to the merits of the cause, and assuming it to be true, as stated, and as we may readily infer from the record, that the assessments for benefits made by the jury in this case were vacated by the court below in the order now appealed from in pursuance of our decision in the case of Davidson *v.* Wight, we are clearly of opinion, that, in consequence of the adverse decision of the Supreme Court of the United States in that case, the order must be reversed,—unless, indeed, there is some element of illegality apparent in this record which was not involved in the case of Davidson *v.* Wight.

3. It is suggested that there are other elements of illegality, and that the assessments in question were unreasonable, unequal, and unjust. This we have no means of ascertaining. There is nothing in the record upon which we can base an opinion. In this connection the record contains nothing but the award or verdict of the jury, and the exceptions of the appellants thereto. There is neither testimony nor anything to supply the place of testimony. Plainly, therefore, there is nothing upon which we can review the decision of the court below. Ordinarily, of course, this would be a sufficient reason for the affirmance of that decision; but it is very apparent that the court below did not pass at all on this point, and that it would be unfair now to the parties in interest to presume that it did.

4. There is, however, a third consideration which we cannot ig-
nore in the disposition of this case. By the act of Congress
80 of June 6, 1900, already mentioned, it was provided that, if for any reason the assessments for benefits should be declared void, the Commissioners should make application to the court for a reassessment. This evidently has no reference to the invalidity consequent upon judicial decision of the unconstitutionality of the act of Congress of March 3, 1899, for there could then, of course, be no lawful reassessment, since the foundation for the whole proceeding would fail. The holding of this court that the act of March 3, 1899, was unconstitutional did not therefore avail to set in motion the instrumentalities of the act of June 6, 1900, for reassessment. And when the Supreme Court of the United States held the act of 1899 to be a constitutional and valid exercise of legislative authority, all reason for reassessment under the act of 1900 vanished. Nevertheless, by the discordant tenor of judicial decision the appellees were induced to forego a right which should now be restored to them, that of summoning a second jury of assessment under chapter 11 of

the Revised Statutes of the United States for the District of Columbia, under which these proceedings were instituted and have been prosecuted, if they now desire to avail themselves of that right. They may prefer to forego that right; and they may prefer no longer to contest the propriety and justice of the assessments. If they so elect, the court will, of course, enter the proper order or decree in the cause. If, on the other hand, they elect further to contest the matter according to law, they should have the opportunity to do so. This court, therefore, should not now direct any final order or decree to be entered by the court below in the premises.

The order appealed from, and only so far as appealed from, will be *reversed;* and the cause will be remanded to the supreme court of the District of Columbia, with directions to vacate such part of said order, and for such further proceedings in the cause according to law as may be right and just.

And it is so ordered.

81 TUESDAY, *April 1st, A. D.* 1902.

HENRY B. F. MACFARLAND, JOHN W. ROSS, and JOHN BIDDLE, Commissioners of the District of Columbia, Appellants,
vs.
EUGENE BYRNES ET AL. } No. 1039, April Term, 1902.

Appeal from the supreme court of the District of Columbia.

This cause came on to be heard on the transcript of the record from the supreme court of the District of Columbia, and was argued by counsel. On consideration whereof, it is now here ordered, adjudged and decreed by this court that the order of the said supreme court, in this cause appealed from, and only so far as appealed from, be, and the same is hereby, reversed; and that this cause be, and the same is hereby, remanded to the said supreme court with directions to vacate such part of said order, and for such further proceedings in the cause according to law as may be just and proper.

Per MR. JUSTICE MORRIS.

April 1, 1902.

82 THURSDAY, *May 8th, A. D.* 1902.

HENRY B. F. MACFARLAND, JOHN W. ROSS, and JOHN BIDDLE, Commissioners of The District of Columbia, Appellants,
vs.
EUGENE BYRNES ET AL. } No. 1039.

On motion of Mr. A. B. Duvall of counsel for the appellants in the above-entitled cause, it is by the court ordered that said appellants be allowed an appeal to the Supreme Court of the United States.

83 Court of Appeals of the District of Columbia.

I, Robert Willett, clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages, numbered from 1 to 82 inclusive, contain a true copy of the transcript of record and proceedings of said Court of Appeals in the case of Henry B. F. Macfarland, John W. Ross and John Biddle, Commissioners of the District of Columbia, appellants, *vs.* Eugene Byrnes, *et al.*, No. 1039, April term, 1902, as the same remain upon the files and records of said Court of Appeals.

Seal Court of Appeals, District of Columbia.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court of Appeals, at the city of Washington, this 17th day of May, A. D. 1902.

ROBERT WILLETT,

Clerk of the Court of Appeals of the District of Columbia.

Endorsed on cover: File No. 18,541. District of Columbia Court of Appeals. Term No. 332. Henry B. F. Macfarland, John W. Ross, and John Biddle, Commissioners of the District of Columbia, appellants, *vs.* Eugene Byrnes *et al.* Filed May 24th, 1902.

No. 1488.

Motion to advance.

Office Supreme Court U.S.
FILED
MAY 28 1902
JAMES H. McKENNEY,
Clerk.

Filed May 28, 1902.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1901.

HENRY B. F. MACFARLAND ET AL.,
APPELLANTS,
vs.
EUGENE BYRNES ET AL.

MOTION TO ADVANCE.

IN THE

Supreme Court of the United States.

HENRY B. F. MACFARLAND ET AL.,
APPELLANTS,

vs.

EUGENE BYRNES ET AL.

MOTION TO ADVANCE.

The appeal in the above-entitled case is from a decree of the Court of Appeals of the District of Columbia, involving the construction of the act of Congress approved March 3, 1899, for the extension and widening of Sherman avenue, in the District of Columbia.

This act of Congress is in terms identical with the act for the extension of S, Twenty-second, and Decatur streets, which this Honorable Court reviewed in the case of Wight vs. Davidson et al., reversing the Court of Appeals, and while the question now sought to be reviewed in this case was not determined by this Honorable Court, the effect of the present decision of the Court of Appeals seriously interferes with the practical operation of said act of Congress, and unsettles all the proceedings taken for the extension of highways in the District of Columbia under the several acts of Congress for 1899, and the several hundred assessments for benefits made under said acts of Congress. These assess-

ments are part of the revenue of the District of Columbia; they involve several hundred thousands of dollars, and the action of the Court of Appeals has clouded the right of recovery, and thus materially interfered with the collection of said assessments. The case presents a question of great public importance, which ought to be determined at as early a day as this Honorable Court may find it convenient to hear the case.

In consideration of the premises, the appellants respectfully pray that the case may be advanced for hearing at the opening of the next term of this Honorable Court. All of which is respectfully submitted.

ANDREW B. DUVALL,
Attorney for Appellants.

I agree with the motion to advance.

(Signed) Leo Simmons,

~~Atouney~~ attorney for Appellees.

Office Supreme Court U.S.
FILED
NOV 4 1902
JAMES H. McKENNEY
Clerk

No. 332.

Brf. of Duvall, Thomas & O'Connor for Appellants.

Filed Nov. 4, 1902.

Supreme Court of the United States.

OCTOBER TERM, 1902.

No. 332.

HENRY B. F. MACFARLAND ET AL., COMMISSIONERS OF THE DISTRICT OF COLUMBIA, APPELLANTS,

vs.

EUGENE BYRNES ET AL.

BRIEF AND ARGUMENT IN BEHALF OF APPELLANTS.

ANDREW B. DUVALL,
E. H. THOMAS,
ARTHUR H. O'CONNOR,
Attorneys for Appellants.

(18,541.)

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C. 4610

(18,541.)

Supreme Court of the United States

OCTOBER TERM, 1902.

No. 332.

HENRY B. F. MACFARLAND ET AL., COMMISSIONERS OF THE DISTRICT OF COLUMBIA, APPELLANTS,

vs.

EUGENE BYRNES ET AL.

BRIEF AND ARGUMENT IN BEHALF OF APPELLANTS.

STATEMENT OF FACTS.

By section 3 of the act of Congress entitled "An act to extend S street in the District of Columbia, and for other purposes," approved March 3, 1899, it was provided as follows:

"That within ninety days after the passage of this act the Commissioners of the District of Columbia are hereby authorized and directed to institute by a petition in the supreme court of the District of Columbia, sitting as a district court, a proceeding to condemn the land necessary for the extension of Eleventh street northwest on a straight extension of the lines thereof, as now established in the city of Washington, with a width of ninety

feet, from Florida avenue to Harvard street, and thence with the same width and in a straight line to Lydecker avenue, joining said avenue with its center line opposite the center line of Eslin avenue. That of the amount found due and awarded as damages for and in respect of the land condemned under this act for the extension of the said Eleventh street, at least one-half thereof shall be assessed by said jury in said proceedings against those pieces or parcels of ground abutting that portion of the street to be opened, and extended to a depth of two hundred feet from the building lines of said Eleventh street as extended."

Under this law a proceeding was instituted which resulted in a verdict by the jury, filed February 20, 1900, awarding as and for damages for the land taken the sum of $269,120 and assessing one-half thereof, viz., $134,560, upon the land abutting the street to be opened. After the filing of the verdict an order *nisi* was passed on the 19th day of March, 1900. In response thereto numerous exceptions and objections to the verdict were filed, and upon the hearing of the same before the trial court an order was passed on the 31st of July, 1900, confirming the awards and setting aside the assessments. From this decree the Commissioners of the District of Columbia appealed to the Court of Appeals, and while that court sustained the verdict of the jury as against the objections and exceptions made thereto, and reversed the judgment of the trial court in setting aside the assessments, it determined, following the case of Brown and Wallach *vs.* Macfarland *et al.*, decided upon the same day, that, although the owners of the land assessed for benefits had not asked for a trial by the second jury, they are now entitled to that right, and the case was remanded for such further proceedings as in the case might be just and right.

ARGUMENT.

The question of law involved in this case, to wit, whether the owners of land affected by the verdict in this case are entitled to a trial by a second jury, is the same in all respects as in the case of Macfarland *et al. vs.* Brown *et al.* (No. 331) upon the calendar of this court. The law and the facts are the same, except in this, that in this case none of the owners have, either by way of exception or objection to the verdict, nor by argument in the Court of Appeals, claimed the right to a second trial. They have elected to stand upon their exceptions, but, nevertheless, the Court of Appeals, in its opinion delivered in this case, held that, under the circumstances, these parties were induced to forego the right to a second jury, which that court decided that they were entitled to, and endeavors to restore to them such right.

We therefore respectfully refer the court, for the purpose of consideration with this case, to the brief upon this question filed by appellants in the case of Macfarland *et al. vs.* Brown *et al.* (No. 331).

ANDREW B. DUVALL.
E. H. THOMAS,
ARTHUR H. O'CONNOR,
Attorneys for Appellants.

Supreme Court of the United States.

OCTOBER TERM, 1902.

No. 332.

HENRY B. F. MACFARLAND ET AL., Commissioners of the District of Columbia,

vs.

EUGENE BYRNES ET AL.

Brief on Behalf of Appellants on the Motion of Appellees to Dismiss the Appeal.

Proceedings in this case were commenced under the provisions of an act of Congress approved March 3, 1899, providing for the extension of Eleventh street northwest, in the city of Washington, D. C.

Under that act of Congress the proceedings were instituted in the supreme court of the District of Columbia, holding a district court, and prosecuted according to the terms of said act of Congress, which referred for the method of procedure to chapter XI, Revised Statutes of the District of Columbia. A jury of seven was caused to be summoned by the marshal, which, pursuant to the act of March 3, 1899, rendered a verdict for damages caused by the taking of the land to be condemned, and, according to the terms of said act of Congress, levied assessments upon the abutting land to the extent of one-half of the

amount of damages awarded. After the verdict was rendered, the court passed an order *nisi* requiring all parties interested to show cause on or before a certain day why the verdict should not be confirmed by the court. Upon the hearing of the exceptions to the verdict and upon motion of the Commissioners of the District of Columbia to confirm the verdict, the trial court passed an order confirming the verdict as to the award for damages and setting it aside as to all assessments for benefits. From this judgment the Commissioners of the District of Columbia appealed to the Court of Appeals.

The Court of Appeals, upon authority of the case of Wight *et al. vs.* Davidson *et al.* (181 U. S., 371), reversed the trial court, holding the law to be constitutional and the assessments valid.

Following their decision rendered at the same term in the case of Brown *et al. vs.* Macfarland *et al.* (XXX Wash. Law Rep., 235), the Court of Appeals determined, although no parties to the case had asked for it, that they were entitled under the provisions of chapter XI, Revised Statutes of the District of Columbia, as matter of absolute right to a re-assessment by a second jury of twelve men, and therefore remanded the case in order that the owners of land could avail themselves of that right or forego it, as they might elect.

This court in construing a similar question in the case of Wheeling & Belmont Bridge Company *vs.* Wheeling Bridge Company (138 U. S., 287), said:

"If the judgment had been different all further proceedings would have been ended" (referring to the judgment of the supreme court of appeals of West Virginia).

In that case the courts of the State of West Virginia had determined the right of the bridge company to take the land condemned and appointed the commissioners to estimate the amount of compensation to be made. Considering

that state of facts, it is further said in the opinion of this court:

"Being for the condemnation, the estimate of the compensation, which was to follow, was to be made by commissioners, to be appointed, and might therefore be treated as being a distinct proceeding."

And, elsewhere in the opinion, that—

"The essential points of contention in the case related to the necessity of the property for the purpose of the petitioner, and to its necessity to the defendant for the proper exercise of its franchise. The judgment of condemnation was conclusive upon both particulars."

For these reasons this court reviewed the decision of the supreme court of appeals of West Virginia.

It is to determine this right of a trial by a second jury that the Commissioners of the District of Columbia have appealed to this court.

In their brief appellees have said that they could never appeal from the decree of the Court of Appeals. It is true that the amount or value of any award for damages to or assessments for benefits against any particular one of the appellees is not sufficient to give this court jurisdiction, but it plainly appears that the validity of statutes and of an authority exercised under the United States was drawn into question in the court below, and could have been presented by assignment of error on behalf of the appellees as well as on behalf of the appellants for the consideration of this court:

Parsons *vs.* D. C., 170 U. S., 45.

The principal and only question in the litigation for decision of this court, viz., the right of appellees to a trial by a second jury of twelve, has been determined by the Court of

Appeals. If that question be not reviewable by this appeal, then under the decision of the Court of Appeals every individual owner affected by the verdict of the jury may exercise that right independently, and no final decision, according to appellees' contention as to what is a final decision, can ever be reached.

The following decisions, distinguishing between cases in which appellate courts have decided against the sufficiency of a demurrer and where they have decided against the validity of a verdict, are precedents, establishing the jurisdiction of this court to review the judgment of the Court of Appeals in this case.

Humphries *vs.* D. C., 174 U. S., 190.
Phillips *vs.* Negley, 117 U. S., 665.
O'Dowd *vs.* Russell, 14 Wall., 402.

These cases, except the last, it will be noted, are cases from the courts of the District of Columbia.

It is respectfully submitted that the only question upon which this case could be brought before this court for review has been determined by the Court of Appeals, and that question is now properly before this court for review.

Andrew B. Duvall,
E. H. Thomas,
Arthur H. O'Connor,
Attorneys for Appellants.

No. 332.
Brf. of Simmons for Appellees
(on ms.)
Office Supreme Court U. S.
FILED
NOV 3 1902
JAMES H. McKENNEY.
Filed Nov. 3, 1902.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1902.

No. 332.

HENRY B. F. MACFARLAND ET AL.

vs.

EUGENE BYRNES ET AL.

MOTION TO DISMISS.

LEO SIMMONS,
Attorney for Appellees.

LAW REPORTER CO., PRINTERS, 518 FIFTH ST., WASHINGTON D. C.

31041

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1902.

No. 332.

HENRY B. F. MACFARLAND ET AL.

vs.

EUGENE BYRNES ET AL.

MOTION TO DISMISS.

Now come the appellees, represented of record by Attorney Leo Simmons and move the court to dismiss the appeal in this case.

First. Because there has been no final judgment or decree entered in the case by the lower court.

Second. Because the decree of the Court of Appeals, from which this appeal is taken, was in favor of the appellants, reversing the court below and remanding the case for further proceeding, and, therefore, no appeal lies to this court from same (Rec., p. 78).

Section 233 of the District of Columbia Code of Laws, which took effect January 1, 1902, allows an appeal from the Court of Appeals only from final judgments or decrees. The Court of Appeals, in delivering its opinion appealed from, said (Rec., p. 78):

> "This court therefore should not direct any final order or decree to be entered by the court below in the premises."

And said court further said (Rec., p. 78):

> "If, on the other hand, they (the appellees) elect to further contest the matter according to law, they should have the option to do so."

So it will be seen that the law of this case has not been settled in the court below and a final judgment or decree entered, and, until it is, no appeal will lie to this court.

French *vs.* Shoemaker, 12 Wall. (U. S.) 86.
North Carolina RR. *vs.* Swasey, 23 Wall. (U. S.) 405.

> "They [the authorities] are uniform, [says Mr. Chief Justice Waite in Dancase *vs.* Kendall, 119 U. S. 53], to the effect that a decree to be final for purposes of appeal, must leave the case in such condition, that if there be an affirmance here, the court below will have nothing to do but to execute the decree it has already entered."

Cited and approved in the case of Lodge *vs.* Twell, 135 U. S. 232.

Cited in the case of Guarantee Co. *vs.* Mechanics' Savings Bank and T. Co., 173 U. S. 582.

See, also, Gibbons *vs.* Ogden, 6 Wheat. (U. S.) 448.

The decree in this case is in no possible way a final decree. The appellees could not have appeal from said decree, and as the record now stands, it appears to me, they can not properly present their side of the case for review.

What can this court do in the premises? It cannot reverse the Court of Appeals; if it did, it would be against the appellants, who seek to have a different ruling. All it can do is to give its opinion as to whether or not the lower court is right in its construction of the law, to the extent it has decided same.

Respectfully submitted.

LEO SIMMONS,
Attorney for Appellees.

3164

Office Supreme Court U. S.
FILED
NOV 4 1902
JAMES H. McKENNEY,
Clerk.

No. 332.

Brf. of Simmons for Appellees.

Filed Nov. 4, 1902.

Supreme Court of the United States.

No. 332.

HENRY B. F. MACFARLAND ET AL

vs.

EUGENE BYRNES ET AL.

Brief for Julius Schneider Et Al., Appellees,
Represented of Record by
Leo Simmons.

LEO SIMMONS,
Attorney for Appellees.

LAW REPORTER CO., PRINTERS, 515 FIFTH ST., WASHINGTON D. C.

Supreme Court of the United States.

No. 332.

HENRY B. F. MACFARLAND ET AL.

vs.

EUGENE BYRNES ET AL.

Brief for Julius Schneider Et Al., Appellees, Represented of Record by Leo Simmons.

STATEMENT OF CASE.

By act of March 3, 1899, Congress passed what is known as a bill to extend S street, and for other purposes.

By said act it was provided—

> "that of the amount found due and awarded as damages for and in respect to the land condemned for said street, at least one-half thereof shall be assessed against the pieces or parcels of lands abutting that portion of the street to be opened, and extending to a depth of two hundred feet from the building line of said Eleventh street as extended."

The act provides that the proceedings shall be as in chapter 11, R. S. D. C.

And a further provision was that the awards for damages should not be paid until the assessments for benefits were

levied and confirmed. And further, that when the benefits were confirmed—

> "they shall severally be a lien upon the land assessed, and be collected as a special improvement tax in the District of Columbia, and shall be *payable in five equal installments, with interest at four per centum per annum until paid.*"

No provision is made for the beginning of the interest, nor does the act state what is the length of time between the installments. The verdict of the jury was returned, and it appeared that assessments had been levied within an area of 200 feet of each side of the street in question, to the extent of $134,560. A ratification *nisi* was passed on March 19, 1900 (Rec., p. 12). Thereupon exceptions were filed upon the ground of unconstitutionality of the law; that the instructions of the court were erroneous, and that the *assessments far exceeded the benefits.*

The awards having been made and returned by the jury, and it appearing that the amount was only $269,120, instead of $310,000 as was estimated by the Commissioners; and it being desirable to take advantage of the verdict on account of the low price allowed, Congress, by the act known as an act to extend "Columbia Road" and for other purposes, which was passed on June 6, 1900, provided for the payment of said awards. Section 2 of said act reads:

> "That of the amount found to be due and awarded as damages for and in respect of the land condemned for extension of Columbia Road as herein provided, such amount thereof shall be assessed by the jury hereinafter provided, as benefits, *and to the extent of such benefits,* against those pieces or parcels of land on each side of said street," etc.

This act provides for public notice, and for an assessment to the extent of benefits found only. Entirely dispenses with said chapter 11 and provides in itself a full and complete law;

and among other things that the court might hear any objection made to any member of the jury and excuses such juror. And if the court should so direct, the proceeding should be in its presence. Sec. 4, act of June 6.

Section 6 provides that the court shall have power to hear and determine any objection which may be filed to said verdict or award, and to set aside and vacate same in whole or in part; to summon a new jury to assess the damages or benefits as the case may be, and if vacated in part, the residue of the verdict and awards as to the land condemned or assessed shall not be affected thereby. And it is further provided by said act of June 6, 1900, Par. 2, Sec 12:

> "The Commissioners of the District of Columbia are authorized and directed to make application to the Supreme Court of the District of Columbia holding a District Court, for the final ratification of the awards of the jury in respect to the land condemned for the extension of Eleventh street; *and said awards when so ratified shall be paid as provided by the act of March 3d, 1899, anything in said act to the contrary notwithstanding. And in the event that the assessments for benefits levied by the jury in relation to said Eleventh street shall, for any reason, be declared void, the said Commissioners of the District of Columbia are authorized and directed to make application to said court for the reassessment of* SUCH BENEFITS UNDER AND IN ACCORDANCE WITH THE PROVISIONS *of this act.*"

The appellants, on June 26, 1900, filed their motion to confirm both the assessment and awards, notwithstanding the objections (Rec., p. 45). And gave notice they would call the same for hearing on June 30. The case having been certified to Chief Justice Bingham, on July 3, he passed an order confirming the awards and declaring the assessments illegal, null and void (Rec., p. 45), and from which order this appeal is prosecuted. By examining the verdict it will be seen, without difficulty, that it is the most unequal assessment that could possibly have been made.

ARGUMENT.

The act of June 6, 1900, took effect on the 3d day of July, 1900, and repealed the act under which the assessments were levied, in so far as it relates to said assessments.

None of the provisions of the act of March 3, 1899, are in the act of June 6, 1900.

By the act of March 3, 1899, the court had apparently nothing to do but to ratify or vacate the awards and assessment; for the act does not require any action on the part of the court, except to confirm or reject the awards and assessments. It was the Supreme Court of the District of Columbia that should ratify the award of the jury. Said court found the assessments were *unreasonable, excessive, and exceeded the benefits.* The act of June 6 left it to the discretion of the Commissioners to make application at once or to wait until the law was settled, for there was no way the act of June 6, 1900, could be called into effect until such move was made by them. They saw fit in exercising their discretion to take this step, and on June 26, 1900, twenty days afther the passage of the act, made application for the confirmation of the awards and assessments, and the court for the reasons set out in the objections (the act provides for any reason) (Rec., p. 44), on the 3d day of July, 1900, declared the assessment illegal, null and void, set aside and vacated same, and at that time the act of June 6, 1900, took effect. The decree of the court (Rec., p. 46) recites said act of June 6 and proceeds under its provisions.

It will be seen that the two acts are by no means in harmony, and the old law was necessarily repealed by the new.

If the act of June 6 is to be construed in favor of persons upon whom assessments or burdens have been levied, it would certainly repeal the former act and take effect at the earliest period.

The intention to repeal the assessment clause of the act

of March 3, 1899, is manifest, though an intention to repeal a certain statutory provision may be inferred from radical changes or abolition of the leading parts to which they were conditions or ancillary.

Sutherland on Stat., Sec. 146. An amendment operates to repeal all of the section amended not in harmony with the amendment. Same authority. Basnet *vs.* Jacksonville, 19 Fla. 664; Nash *vs.* White's Bank, 37 Hun, 57.

> "Statutes which take away penalties, etc.; statutes which are in favor of those on whom taxes are assessed or burdens laid, or in favor of those who are subjected to prejudice by exercise of a special privilege granted by law, are remedial and are to be liberally construed. Where the intention is plain to confer a privilege upon those whose rights are affected by a statutory proceeding, in derogation of the right of personal property, and the language is doubtful as to the extent of the privilege, it is the duty of the court to give it the largest construction in favor of the privilege which the language employed will fairly permit."

Sutherland on Stat. 441, and cases cited.
Walker *vs.* Chicago, 56 Ill. 277.

Where the taking effect of an act depends on a condition, it will not take effect until the condition is fulfilled, but the condition being performed it will immediately take effect.

See Sutherland on Stat. 109.
Cain *vs.* Goda, 84 Ind. 209.
Welch *vs.* Battern, 47 Iowa, 147.
State *vs.* Donehey, 8 Iowa, 396.
Hunt *vs.* Murray, 17 Iowa, 313.
2 Ark. 260.

> "A statute is repealed without a special repealing clause where another law is passed upon the same subject, that is inconsistent to it.
> "Such repeals are recognized as intended by the

legislature, and its intention to repeal is ascertained as the legislative intent is ascertained in other respects, when not expressly declared by construction."

Sutherland on Stat. 138.

Thorp *vs.* Schooling, 7 Nev. 15.

"An implied repeal results from some enactment, the terms and necessary operation of which can not be harmonized with the terms and necessary effect of an earlier act.

"In such case the latter law prevails as the last expression of the legislative will; therefore, the former law is constructively repealed, since it can not be supposed that the law making power intends to enact or to continue to enforce laws which are contradictions. The repugnancy being ascertained, the latter act or provision in date or position has full force, and displaces by repeal whatever in previous law is inconsistent with it."

Sutherland on Stat. 138, and cases cited.

Wood *vs.* United States, 16 Pet. (U. S.) 342.

Dwarris Stat. 113.

Subsequent legislation repeals previous inconsistent legislation whether it expressly declares such repeal or not.

"In the nature of things it would be so, not only on theory of intention, but because contradictions can not stand together."

Sutherland Stat. 138, and citations.

No one will question the fact, that the act of June 6, 1900, is repugnant to and inconsistent to the act of March 3, 1899. And that the act of June 6 is a full and a complete law in itself; that upon certain conditions it was to take effect for the purpose of assessing the land in question, and if it did take effect it necessarily repealed the former law.

"While repeals by implication are not favored it is well settled that when the acts are not in all respects

> repugnant, if the latter act covers the whole subject of the earlier act and introduces new provisions which plainly show that the law was intended as a substitute for the first, it will operate as a repeal."
>
> King *vs.* Cornell, 106 U. S. 395.

In the case of the United States *vs.* Tynen, 11 Wall (U. S.), 88, the court said:

> "The act of 1813, declares that the fine when imposed, shall not be less than $500; the act of 1870 allows a fine as low as $300; Thus authorizing, which the first act declared shall not be done. When repugnant provisions, like these exist between the acts the latter act is held, according to all the authorities, to operate as a repeal of the first act. As the latter expresses the will of the Government as to the manner the offense shall be subsequently treated."

The above case was referred to and approved in District trict of Columbia *vs.* Hutton, 143 U. S. 18, where the act relating to appointment of police officers was held repealed by implication.

> See Nat Bank *vs.* Peters, 144 U. S. 570.
>
> See, also, United States *vs.* Affmosdt, 122 U. S. 197,

and cases cited by the court, including above.

> Tracy *vs.* Tuffly, 134 U. S. 206.

How could two statutes be more repugnant than the two in question? The act of March 3, 1899, declares that at least 50 per cent of the cost of opening the street shall be the amount assessed against the land. The act of June 6 declares that the assessment shall be to the extent of the benefits found, which may be less than 10 per cent of cost of land condemned. The act of June 6 provides for objections to any juryman and gives the court the power to have the proceeding in its presence, etc. The act of 1899 is en-

tirely silent as to when any of the assessments for benefits shall be paid. It declares they shall:

"*Be payable in five equal installments.*" Of what period? *What is certain about the assessment?* When would they start to pay? And when would the second installment be due? No time is fixed and the party assessed might well say: "I am not ready to pay the second installment." Congress meant to remedy this, for by the latter act it is provided:

> "And shall be payable in four (not five) equal annual installments, with interest at 4 per cent from date of confirmation."

Thus we have in the latter act a definite time for the interest to begin, a definite time for the second installment and each of the two following. As to the uncertainty of the act of March 3, in relation to the time for payment of assessment, I shall treat later on.

And I submit that the laws in question should be construed as if they were penal statutes; for they are orders or directions from the supreme authority to its officer to do certain things whereby an assessment is levied or a penalty is imposed. It is not like a statute that would affect or interfere with rights between individuals. The act of June 6, 1900, was a direction from the legislative power to its officers to do a certain thing, and it was for the legislative body to decide if it was willing under certain conditions to abandon the old act and substitute the new. And so, with a criminal prosecution, it is the law-making power that has decided the steps to be taken and directs their execution.

Can the appellants say:

We will prosecute the case to the court of last resort under the old law, and if we fail, we will then take the new.

Suppose the Court of Appeals had been sustained in the case of Wright v. Davidson, would they have carried the case to the court of last resort before taking up the new law?

Congress did not leave the question of the validity of these assessments to the constitutionality of the law only, but provided that if the assessment should be held *void for any reason*, the new law should take effect. Besides those appearing there are many reasons assigned in the record why these assessments should not be ratified, and the presumption is that the court below found each to exist; and it is a well-known principal that if the lower court sets aside a verdict of this kind, the appellate court will not disturb the decree, if there is any possible ground to place it upon. THE LOWER COURT SIMPLY GRANTED A NEW TRIAL TO THE APPELLEES.

> "The effect of a repealing statute is to obliterate the former law as completely from the records as if it had never existed. *Except* for the purpose of those actions that were *commenced, prosecuted and concluded while it was an existing law.*"
>
> See Inwagen *vs.* Chicago, 61 Ill. 31.
> Ray *vs.* Goodman, 4 Moore and P. 34.
> Dwarris Stat. 676.
> Throm *vs.* San Francisco, 4 Cal. 165.
> Ex parte McCardle, 74 U. S. 514.

> "No right can be said to have accrued under a statute, unless before its repeal such rights were carried to judgment."
>
> Gregory *vs.* Bank of Denver, 3 Col. 332.
> Gaul *vs.* Brown, 53 Me. 496.
> Carts *vs.* Leonvitt, 15 N. Y. 152.
> Nichol *vs.* Squire, 5 Pick. 168.
> See Norris *vs.* Crocker, 54 U. S. (13 How.) 429.

"Pending judicial proceeding based upon a statute. If it appears even in a court of last resort, that pending the appeal a statute, that was necessary to support the judgment of the lower court has been repealed, the judgment will be reversed."

State *vs.* Daley, 29 Conn. 272.
Gilliad *vs.* Schuyler, 9 Kan. 387.
McMinn *vs.* Bliss, 31 Cal. 122.
Keller *vs.* State, 12 Md. 323.
Price *vs.* Nesbit, 29 Md. (new), 263.
Mayor of Annapolis *vs.* State, 30 Md. 112.
Wade *vs.* St. Mary's School, 43 Md. 178.
Shepard *vs.* State, 1 Tex. App. 506.
Montgomery *vs.* State, 2 Tex. App. 618.
Hubbard *vs.* State, 2 Tex. App. 506.
United States *vs.* Peggie, 5 U. S. (1st Cranch), 103.

"If a statute giving a special remedy is repealed without a saving clause in favor of pending suits all suit must stop where the repeal finds them."

South Carolina *vs.* Gaillard, 101 U. S. 433.

"When an action for recovery of a penalty provided by an act is pending at the time of the repeal of such act, the repealing act is a bar to the action."

Norris *vs.* Crocker, 13 How. (U. S.) 429.

It will be seen by the twelfth section of the act of June 6, 1900, that the law was made applicable to the opening of many other streets; will it be contended that the act of March 3, 1899, is still in force as to *those*? The only difference in the law as to *those* streets and the one in question, is that as to the former it was to take effect upon its passage, and as to the latter on a certain condition.

"It has been frequently recognized in admiralty causes, when property was seized and condemned, and the law was repealed before decision of the court,

the court above removed the penalty, and that the court in disposing of the appeal or writ of error must decide according to existing law at the time of judgment."

Killer *vs.* State, 12 Md. 325.

Citing 5 Cr. 281 (6 Cd. 203), 3 Pet. 57, Marshall, J.

Mayor of Annapolis *vs.* State, 30 Md. 112.

"The same principle appears when a law is repealed or expires pending an appeal or writ of error, from a judgment of an inferior court, because the decision must be in accordance with the law at the time of the final judgment."

Citing Marshall, J., in 1 Cr. 110.

In Wade *vs.* School, 43 Md. (case under condemnation proceeding), holding that the new law repeals the former, pending proceeding: "No person has a vested right in any case or proceeding."

Endlich on Stat. 285.

If assessment shall for any reason be declared void, must mean when declared void by the court of original jurisdiction, "*When a judgment is obtained means when any judgment is obtained in a court of competent jurisdiction.*"

McGovern *vs.* Connell, 43 N. J. Law, 108.

"An act may be passed to take effect not only at a future day certain, but also upon the happening of a future contingency.

"In the former case it takes effect on the day fixed, but in the latter it takes effect upon the happening of the contingency."

Endlich on Stat. 449.

Thus, where an act provided for an election, "after the present war was over," it was held to go into effect only

after the President's proclamation that the war had ceased.

Conley *vs.* Sup. Calhoun Co., 2 W. Va. 418.
See, also, 420 Weekly Note Cases, Phila (Pa.) 226.

Congress may suspend a law, to be revived on the happening of a contingency, and it will take effect from the occurrence of such.

The Aurora *vs.* United States, 7 Cr. (U. S.) 382.

> "When the law is made to take effect on the happening of such an event, the legislation in effect declares the law inexpedient if the event should not happen, but expedient if it should happen."
>
> Clark *vs.* City of Rochester, 24 Barb. 490, 498.

The act of June 6 was a full law from the time of its passage, and took effect wholly the moment it could have been resorted to for any proceeding. And can it be said that when the court vacated the former assessments, it could not, under a proper petition of the Commissioners, have proceeded under said act to assess the land as therein provided.

Clark *vs.* Rochester, 24 Barb. 490.

Statutes speak from the time they take effect, and from that time they have posteriority.

Sutherland on Stat. 160.
Endlich on Stat. 479.

In the case of Miller *vs.* Mayor of New York, 109 U. S. 384, this court said:

> "The efficiency of an act as a declaration of legislative will, must of course come from Congress, but the ascertainment of the contingency upon which the act shall take effect, may be left to such agency as it may designate."
>
> See U. S. *vs.* Bloomfield, 81 Fed. 252.

In the case of Field *vs.* Clark, 143 U. S. 649, the court said, referring to the acts of the President:

> "He was the mere agent of the law-making department to ascertain and declare when the law should take effect."

And so with the case at bar, the lower court was to decide upon the application of the Commissioners, whether or not it would declare the assessments void, set them aside, and when it did so it put the new law into effect. It matters not even if an error was committed, the law followed the judicial decree as a matter of course, as with the proclamation of the President under the law giving him the power to direct—

> "Upon satisfactory evidence being given the President of the United States by the government of any foreign nation, that no discriminating duties, etc., are imposed or levied, etc., upon vessels wholly belonging to citizens of the United States, the President is hereby authorized to issue a proclamation declaring that foreign discriminating duties, etc., in the United States shall be suspended," etc.
>
> Field *vs.* Clark, supra.

Could it be claimed, if the fact supposed to exist at the time the President made use of such proclamation, did not so exist, and an error was thereby committed, the act, for that reason, would not be effective?

The act of June 6, 1900, specifically declares that—

> "In the event that the assessments for benefits levied by the jury in relation to said Eleventh street shall, *for any reason*, be declared void, the Commissioners of the District of Columbia are authorized and *directed* to make application to the said court for the reassessment of such benefits under and in accordance with the provisions of this act."

So it will be clearly seen that Congress intended that the act should take effect in case the assessments then

levied should be declared void and set aside **for any reason.** In other words, if the assessments returned by the jury on the 16th day of February, 1900, (Rec., p. 53) should be declared void for *any reason*, then the act of June 6, 1900, should take effect. And certainly if the owners of the property assessed are entitled to a new jury under the old law, as held in the case of Brown *vs.* McFarland, 30 Wash. Law Rep., p. 235, and Todd et al. *vs.* McFarland, Vol. 30, No 8, Wash. Law Rep., p. 423, the assessments have to be set aside and necessarily become void. And when that occurs, the act must necessarily take effect.

The exceptions and objections to the verdict in this case were filed after the act of June 6, and in contemplation of law Congress must have known that the property owners had a right to have those assessments declared void and set aside on objections being made thereto. When the objections were made, according to the ruling in Brown *vs.* McFarland, and Todd et al. *vs.* McFarland, *supra*, the assessments *ipso facto* became *void*, from that time, because they could not be enforced or confirmed. If a new jury is to be ordered, as the Court of Appeals has decided, how can the proceedings be under any other statute than the act of June 6, 1900, for clearly the old assessments, which Congress refers to in said act, cannot exist, or certainly will not exist when a new jury is ordered. If the assessments were not void, in the strict legal sense, they were certainly voidable, and the words,—"void for any reason" used in the statute must mean in case the assessments then levied and existing could not be confirmed.

Void may mean absolutely void, or voidable only; but it is very properly applied to things that are avoidable. By Anderson's Dictionary of Law, page 1092, it is given as something incapable of confirmation or ratification. In the case of Somers *vs.* Brewer, 2 Pick. (Mass.) 184, Mr. Justice Parker said, speaking of the definition of the word void—

> "What may be avoided may in good sense to this purpose be called void, and this use of the term void is not uncommon in the language of statutes and courts."

I submit, therefore, that the words of the statute are as plain as they can be, and it was clearly intended that if the assessments levied by a former jury, and then existing in relation to Eleventh street, were set aside, the act of June 6 should necessarily take effect.

Said act took effect upon its passage, to a certain extent; for the act of 1899 provided that the awards for damages should not be paid until the assessments for benefits were confirmed; while the act of June 6, 1900, declared that the awards for damages should be paid immediately on the confirmation of same, "anything in the former act to the contrary notwithstanding." Certainly this was a repeal of so much of the act of 1899 as prevented the payment of the awards until the assessments were confirmed.

This statute must be construed in favor of the parties upon whom penalties are imposed.

> Southerland on Statutes, 441, and case cited.
> Walker *vs.* Chicago, 56 Ill., p. 277, and cases cited.

The Court of Appeals, in delivering its opinion in this case, seems to have been under the impression that it was a question of whether or not there was any necessity for the act of June 6, 1900, to take effect. They say (Rec., p. 77):

> "By the act of Congress of June 6, 1900, already mentioned, it is provided that, if for any reason the assessments for benefits should be declared void, the Commissioners should make application to the court for reassessment. This evidently has no reference to the invalidity consequent upon the judicial decision of the unconstitutionality of the act of March 3, 1899, for there could be no reassessment since the whole proceeding would fail."

This is just what the appellees contend, that it made no difference for what reason the assessment then existing should be vacated; upon the court so declaring them void and vacating them, as it did, the new act must by any construction take effect.

Continuing the court said—

> "the holding of this court, that the act of March 3d, 1899, was unconstitutional did not therefore avail to set in motion the instrumentalities of the act of June 6, 1900, for reassessment, and when the Supreme Court of the United States held the act of 1899 to be a constitutional and valid exercise of legislative authority all reason for the reassessment under the act of 1900 vanished."

The appellees never contended that any act of the Court of Appeals or this court set the act of June 6 in motion; but that the action of the lower court did, and that it was not a question of necessity, as to whether or not the law took effect, the question is, what was done; what effect did the action of the trial court have upon the statute. It did just what the act said should be done to put in motion the new law and whether or not it was error to do so makes no difference. The act either took effect or it did not. If it took effect nothing but a repeal of it could prevent its effect.

The Assessing Clause of the Eighth Section of the Act of March 3, 1899, is Void for Uncertainty.

The act under which the assessments were levied, approved March 3, 1899, has the following provision in relation to the assessments for benefits:

> "SEC. 8. When confirmed by said court the assessments shall severally be a lien upon the land assessed and be collected as special improvement tax in the District of Coulumbia, and shall be payable *in five equal installments, with interest at four per centum per annum until paid.*"

The assessments referred to, and which were attempted to be levied, necessarily depend for validity upon the assessing clause of said statute, and if the enactment under which the assessments were levied (or are to be levied) is incapable of enforcement by reason of any omission or mistake in the wording thereof, then it is necessarily inoperative and void. For certainly a statute that can not be enforced, is no law at all.

The wording of the act, "payable in five equal installments," means nothing. There is nothing certain about it. Five equal installments may mean installments of a day, week, month, year, ten or a hundred years. Certainly no one could be required to pay the tax at any time, because the amount attempted to be levied as a tax will never be due. If the knowledge of what was intended can not be gained or ascertained from the statute itself, there is no way to aid it, and therefore such enactments must fail for want of certainty. There is no time mentioned for the payment of the first, second, third, or fourth installment of the alleged tax. Such being the case, when could payment be legally demanded? STATUTES MUST BE CAPABLE OF CONSTRUCTION AND INTERPRETATION, OTHERWISE THEY ARE VOID.

> "The court must use every authorized means to ascertain and give it an intelligible meaning, but if after such efforts it is found to be impossible to solve the doubt and dispel the obscurity, if no judicial certainty can be settled upon as to the meaning, the court is not at liberty to supply or make one. The court may not allow conjectural interpretations to usurp the place of judicial exposition. There must be a competent and efficient explanation of the legislative will."
>
> State *vs.* Partlow, 91 N. C. 550.

"Acts of the legislature should be plain and not

couched in such a way that they can not be understood and readily construed."

Hughes Case, 1 Bland, 46.

Endlich on Stat. 24, and case cited.

McCondville *vs.* Mayor of Jersey City, 39 N. J. 38.

Ward *vs.* Ward, 37 Tex. 389.

Commonwealth *vs.* Bank, 3 Watt. and Serg. (Pa.) 173; 23 Am. & E. E. of Law (1st Ed.), 301, note.

See, also, 57 Mo. 25.

"Whether a statute be a public or private one, if the terms in which it is couched be so vague as to convey no definite meaning to those whose duty it is to execute it, either ministerally or judicially, it is necessarily inoperative."

Drake *vs.* Drake, 4 Dev. (N. C.) 110.

In the case of Blanchard *vs.* Spirges, 3 Sum. 280, a case wherein the time for expirations of a patent was extended, the act referred to a patent issued on a different date and it had a number different from the one thought to be intended, the court said, Story, J:

"The descriptive words constitute the very essence of the act, unless the description is so clear and accurate as to refer to the particular thing intended, and be incapable of being applied to any other, the mistake is fatal.

"On the whole, although I can not doubt, as a private man, what patent was intended to be renewed by Congress yet I do feel great doubt whether judicially, I am at liberty to depart from the very words of the act of Congress to correct a mistake not apparent upon the face of the act when the mistake when corrected, will still leave another doubt behind it, and that whether I do not, by such correction, depart from the intention of Congress manifested."

In the case of United States *vs.* Union Pacific R. R. Co., 91 U. S. 85, the court said:

> "In support of this construction, it is sought to give the word 'maturity' a double signification, applying it to each payment of interest as it falls due, as well as to the principal. But this is extending the operation of words by a forced construction beyond their natural and ordinary meaning, which is contrary to all legal rules. Courts can not supply omissions in legislation, nor afford relief because they are supposed to exist. 'We are bound,' said Justice Buller, in an early case in the King's Bench, 'to take the act of Parliament as they have made it; a *casus omissus*, can, in no case, be supplied by a court of law, for that would be to make laws; nor can I conceive that it is our province to consider whether such a law that has been passed be tyrannical or not.'"
>
> Jones *vs.* Smart, 1 Term. Rep. 44.

Lord Chief Baron Eyre, in the case of Gibson *vs.* Minet (1 H. Bl. 569–614), said:

> "I venture to lay it down as a general rule, respecting the interpretation of deeds, that all latitude of construction must submit to this restriction, namely, that the words *may* bear the sense, which, by construction, is put upon them. If we step beyond this line, we no longer construe men's deeds, but make deeds for them. This rule is as applicable to the language of a statute as to the language of a deed."

And in the case of Hobbs *vs.* MacLeon, 117 U. S. 567, the court said:

> "When a proposition is left out of a statute, either by design or mistake of the legislature, the courts have no power to supply it. To do so would be to legislate and not to construe. We are bound, says Mr. Justice Buller, in Jones *vs.* Smart, 1st T. R. 44, to take the act of Parliament as they have made it. And Mr. Justice Story, in Smith *vs.* Rines, 2 Summ.

354–355, observes: 'It is not for the courts of justice proprio marte to provide for all the defects or mischief of imperfect legislation.'"

See, also, Knight *vs.* Burwell, 12 A. & E. 460.
Lamon *vs.* Eiffe, 3 Q. B. 910.
Bloxam *vs.* Elsee, 6 B. C. 169.
Bartlett *vs.* Morris, 6 Port. Ala. 266.
Grace *vs.* Collector, 79 Fed. Rep. 318.

And in the case of United States *vs.* Goldenburg, 168 U. S. 102, the court said:

"No mere omission, no mere failure to provide for contingencies, which it may seem wise to have specifically provided for, justify any judicial addition to the language of the statute.

"Where the language is precise and unambiguous, but at the same time incapable of reasonable meaning, the act is consequently inoperative; a court is not at liberty to give the words, on merely conjectural grounds, a meaning which does not belong to them. In other words, where the language of a statute is so devoid of certainty as to render it impossible to ascertain the result intended to be achieved, it can not be assumed that it was intended to give the court, as the interpreter of the statute in the last resort, power to control the event."

Endlich on Interpret. of Stat., Sec. 24, and cases cited.

"Thus, where an act made warrants of attorney to confess judgment void as against the assignee of the bankrupt, if not filed within 21 days from execution, or unless judgment was assigned 'or' execution was 'issued' within the same period, the Court of Queens Bench refused to alter 'or' into 'and' and 'issued' into 'levied;' though the passage was unmeaning as it stood, and the proposed alteration would have given it effect, which, because rational, was probably, but only conjecturally, the effect intended by the legislature."

Green *vs.* Wood, 7 Q. B. 178.

In the case of Ward *vs.* Ward, 37 Tex. 389 (see page 392), referring to a statute that was incapable of enforcement, the court said:

> "We hesitate, and consider well, any judgment of ours which declares unconstitutional or void an act of the legislature, paying due deference to the learning and wisdom of that branch of the Government. But when we find ourselves totally unable to administer a law, by reason of its uncertainty or ambiguity, or believe it to be unconstitutional, we shall not hesitate to discharge the duty which the law devolves upon us.
>
> "We do not mean to say, by any means, that the act of November 1, 1871, is unconstitutional, but we do say that it is nugatory and void for want of some adequate provision in the law to carry out its execution."

In the case of Rex *vs.* Barnum, 8 B. & C. 59, the court said:

> "Our decision may, perhaps in this particular case, *operate to defeat the objects of the 59 G. 3, but it is better to abide by this consequence than to put upon it a construction unwarranted by the words of the act*, in order to give effect to what we may suppose to have been the intention of the legislature."

And in the case of Maxwell *vs.* State, 40 Md. 273, the court said, in relation to an act of the Maryland legislature:

> "Where the words of the act, as we have said, are plain and unambiguous; the legislature has declared that in the execution of this assessment law, all the property in the State shall be exempt from taxes except what is particularly mentioned.
>
> "It is very probable; nay, we feel quite sure, the legislature intended to say something very different. There has evidently been some mistake or omission, and we are asked to correct the mistake or supply what has been omitted in order to make the expression what we suppose to have been the intent of the legislature. *We certainly have no power or authority to do so.*"

And in the same case, citing Alexandria *vs.* Worthington, 5 Md. 485, quotes the following words:

> "We are not at liberty to imagine an intent, and bind the letter of the act to that intent; much less can we *indulge in the license of striking out and inserting and remodeling with the view of making the letter express an intent which the statute in its native form does not evidence.*"

And in another part of the opinion, the court quotes from Smith on Statutory and Constitutional Construction:

> "Courts must not, even to give effect to what they may suppose to be the intention of the legislature, put upon the provision of the statute the construction in support of the words, *even although the consequences should be to defeat the object of the act.*"

And again, in the same opinion, citing what was said in Woodbury & Company *vs.* Berry, 18 Ohio, 462:

> "We are satisfied by considerations outside of the language, that the legislature intended to indicate something very different from what it did indicate. But it did not carry out its intention; and we can not take the will for the deed. *It is our legitimate function to interpret legislation, but not to supply its omission.*"

And in the same case the court said:

> "It requires no argument to prove that a law which exempts from taxation all the property in a State, except a small portion specified in the act, which only is thus by implication made subject to taxation, is unconstitutional and void, apart from the consideration, that among the property thus enumerated is some which the State has not the power to tax. On this ground, and because the assessment must receive this construction according to its plain and positive expression, it is our duty to declare that it is inoperative. It is evident that a mistake has occurred in drawing the law, something

has been omitted, but we can not correct the mistake or supply the omission. We are compelled to take the law as the legislature has indicated it. We have no power to change the words or add expressions in order to make it express what we suppose had been the intention of the legislature.

"*If they have failed to express their real intention, it is for them and not for the courts to amend the law and make it express the legislative will.*"

In the case of Commonwealth *vs.* Bank of Penn., 3 Watt & Sergeant's Reports (Pa.), *supra*, the court said, holding that a statute of the Pennsylvania Legislature incorporating a bank, was void for uncertainty:

"We have seldom, if ever, found the language of legislation so devoid of certainty as in the proviso before us."

And the latter part of same opinion:

"We are constrained, therefore, to say that no valid election has been held, and none can be held without further legislation."

In the case of Murphy and Coal *vs.* Enery, 77 Md. 86, it was said, affirming Maxwell *vs.* State, *supra*:

"It seems to be clear that what was intended was that some section of the ordinance referred to should be amended so as to read as set forth in section 2 of that act. But if this construction be adopted the act becomes void for uncertainty, for in the ordinance mentioned in section one of the act of 1892 there is no provision at all for which section 2 of this act could be substituted. It was doubtless intended to have refered to some other ordinance and it was stated in the argument that the ordinance to which reference should have been made in section one 'was one with a different number, approved on a different day, and relating to a different subject-matter.' *But as we are unable to ascertain from anything in the act itself what ordinance the legislature had reference to, the whole act becomes so uncertain that we can not do otherwise than declare it void.*"

The Court of Appeals, in the case of Todd et al. *vs.* MacFarland et al., Vol. 30 Washington Law Reporter, page 423, considering the provisions of a similar statute, held same to be so defective that payment of the assessment could not be enforced. Yet said court was of the opinion that said act could be perfected by new legislation and cited in support of its opinion the case of People *vs.* Lawrence, 36 Barb. N. Y. 177. Though I doubt the accuracy of the doctrine as laid down in said case (36 Barb.), yet that case is not similar and is not in point. There the assessments were regularly levied and the time for payment fixed; but no definite person was appointed to collect the amount levied.

While in this case the very foundation of the thing is defective, namely, the want of a definite time for payment.

If this defect vitiates the section of the statute, which contained the provision and made it void for want of certainty, in contemplation of law, there never was any assessment in existence, and how could the law be amended so as to relate back and make valid something that did not exist?

The Assessments are Unequal and the Verdict Clearly Shows that the Jury Acted Without any Care or Proper Consideration of the Matter, and the Trial Court's Order Vacating the Assessment was Proper for that Reason.

It seems incredible that a jury of intelligent men would have returned such an assessment. If the court will examine the verdict as to the east 14 feet 4 inches of lot 5 in block 27 (Rec., p. 60), it will find an assessment of $521 (which exceeds the value of the land), and on the east 14 feet 4 inches of lot 5 in block 26, both of which are similarly situated, there is an assessment of $87 only (Rec., p. 59).

And on lot 27, block 27, the amount assessed is $1,810 (Rec., p. 60), while on lot 4, block 26, just opposite, with same frontage, the amount assessed is only $377, or about one-sixth the amount on said lot 27 (Rec., p. 59).

Then take part of lot 30, block 27, we have a frontage on Eleventh street of 213 feet, and an assessment of $1,517 (Rec., p. 60), while on lot 1, block 26, with a frontage of 150 feet, a fraction over one-fourth less, is assessed only $804 (Rec., p. 59). The lot in block 27 is assessed at a fraction over $7 per front foot, while the one in block 26 about $5 per front foot; and the only difference in the situation, if any, is that the lot in block 26 is *a northwest corner, the most desirable situation that can be obtained for building purposes.*

Then take lot 27, block 27; this lot is 135 feet from the street; we have an assessment of $1,810 (Rec., p. 60), while lot 9 in square 12 (Rec., p. 61), Todd and Brown subdivision, which is less than 100 feet from the street, is assessed only to the extent of $338, or one-sixth of the amount of the lot in block 27.

And lot 22 in block 26 is 135 feet from the street (Rec., p. 59), same distance as lot 27 in block 27, and it is assessed at $301, and the situation as to desirability of both lots are identical. Lot 2 in block 27 is assessed at $2,130 (Rec., p. 60), while lot 2 in block 26 is assessed at $1,130 (Rec., p. 59). This is only a small number of such instances, as the court will see by examining the verdict. What is there in this record to show that the court did not come to the conclusion, that this assessment should be set aside for inequality? The trial court had full discretion in this regard.

The Section of the Act of March 3, 1899, Relating to the Assessment is Unconstitutional and Void.

This case is entirely different from the case of Wright *vs.* Davidson, decided by this court, 181 U. S. 371. The act relating to the assessment in that case reads as follows:

> "That of the amount found due and awarded as damages for and in respect of the land condemned under this section for the opening of said streets, not less than one-half thereof shall be assessed by the

> jury in said proceedings against *the pieces and parcels of ground situate and lying on each side of the extension of said streets, and also on all or any adjacent pieces or parcels of land which will be benefited by the opening of said streets as herein provided.*"

While that of the section relating to Eleventh street (the case at bar) is limited to 200 feet and reads:

> "That of the amount found due and awarded as damages for and in respect of the land condemned, under this act for the extension of said Eleventh street, at least one-half thereof shall be assessed by said jury in said proceedings against those pieces or parcels of ground abutting that portion of the street to be opened, and extending *to a depth of two hundred feet from the building lines of said Eleventh street as extended.*"

In the Davidson case this court said:

> "However, as we learn from this record that there are others than the appellees concerned in the question of the validity of the act of Congress, and as the decision of the Court of Appeals, by declaring the act void as to the appellees, operates to defeat or suspend proceedings under it, *and under other existing acts of Congress in similar terms*, respecting public improvements in the District, we prefer to pass by the question whether the appellees are estopped by having made the dedication imposed as a condition precedent to the openings of the streets, and to place our decision upon the question discussed by the Court of Appeals and which controlled its decision, namely, that of the constitutionality of the act of Congress under which the proceedings were had."

It can be plainly seen that the section under which the assessments were made in this case, is not in similar terms of that of the one in the Davidson case. By section 3 of the act of 1899, relating to the street in question, the assessing area is limited to 200 feet; while in section 1, relating to S street,

it is unlimited. The Davidson land could not have been assessed without benefits being found, for that land did not abut the land to be condemned; it fronted upon that part of the street which was donated. Section 2 of said act, relating to Sixteenth street, which had a limited area, has been repealed by section 12 of the act of June 6, 1900. And section 4, relating to New Hampshire avenue, had an unlimited area. So it will be seen that the assessment affecting the property in question is different from any other of said act.

The jury in the condemnation proceedings to extend Sixteenth street, made under the act of June 6, 1900, returned a verdict, by which it appears that damages to the extent of $729,952 were allowed and benefits assessed amounting to the sum of $108,834 only; a fraction over one-seventh, instead of one-half as in this case. I assume that the attorneys for the appellants will not deny this to be a fact. This clearly shows the injustice of the assessments in this case, the damages allowed in the Eleventh street case being only a fraction over one-third of the amount in that of Sixteenth street, yet the benefits assessed in Eleventh street amount to $23,726 more.

To show the injustice of same, suppose Congress should pass a law directing the extension of a street through a building such as the Catholic University, in Brookland, D. C.; and by such law require that one-half of the cost, "for and in respect to the land" should be assessed against the property within two thousand and five hundred feet of such street? In such an area of 5,000 feet square, there would be a fraction over 57 acres; suppose it to be worth $2,000 per acre; upon this plat of land we would have to assess one-half the cost of a million dollar building besides the land taken. Would that be "just compensation and due process of law?" It may be said that the legislature would not do such a thing; but that is not the question; has it the right to do so?

It is possible that Congress may have authority to fix a taxing district under certain circumstances. But to say that the legislature has a right to fix a *limited* taxing area upon which to levy an unascertained and uncertain sum, as taxation, which may be less or twice as much as the value of the land assessed, it seems to me, is wrong in principle. Can it be claimed that Congress could pass a law to take my property at such price as it might fix, and say I must take the amount allowed by such law, and that I should not have a hearing as to the value of same? Such a law, however, if I were allowed anything, would be more reasonable than taxing me without a hearing; for I would get something for the property in the first instance, and by levying upon me whatever may be necessary to pay for other property, it would be possible for me to get nothing. What are the provinces of the courts if such is the power of the lawmakers?

For further example, suppose we take the case of the United States post office, situated in Pennsylvania avenue of this city. There the awards amounted to about $675,000 for land taken and improvements. Suppose the law in that case had required that one-half of that large sum should be assessed upon the adjoining squares to the extent of 100 feet in depth. In such area there would be about 90,000 feet of land, and if placed at three dollars per foot would amount to $270,000, while the assessment against it would amount to $337,500. Would that have been just compensation? Such is the case at bar.

In the Davidson case the jury were left to place the benefits wherever found. The language of the court in the Davidson case places its opinion clearly upon the grounds that there was no limitation in the assessing area. Such is not this case. It stands distinctly alone and raises the questions as to whether Congress has a right to say that one-half of the cost of opening a wide avenue shall be assessed against a specific property, without a regard to benefits, and

is clearly in opposition to the doctrine laid down in the case of Norwood *vs.* Baker, 172 U. S. 269.

This court, it seems, in deciding the case of Wight *vs.* Davidson, was impressed with the idea that by sustaining the lower court it would interfere with the settled law in relation to special improvement tax for water mains, etc., but if such was the impression it appears to me it is ill founded.

To say a certain improvement to an existing street, such as laying water mains, sewers, etc., will benefit the property adjoining, is asserting that which is as well known as anything can be. And in this enlightened age we need not grope in the dark about such matters; common sense and past experience points out what the cost of such things are, and that they are comparatively small. It may well be said, that to put a water main in front of my property will benefit it to the extent of the cost; for it is adding an improvement, we might say a fixture, to it that I may use exclusively, to the extent of that part of it which is fronting on my property. The general public does not get any benefit of it; it is not like a waterworks, reservoir, or public highway. And past experience has informed us just what the cost will be, practically to the penny; no judicial or "legislative determination" is necessary. We know in advance what will be the consequence. But to say that the legislature can arbitrarily determine that property within a limited area will be benefited to a certain amount (by simply platting or marking out a street) and direct that it be so assessed, without any notice or hearing whatever, seems to me most unreasonable. It certainly is not "due process of law." It could not be so declared, because no hearing was given by the body that passed the act. It was not a law until it was approved by the President, at which time the "legislative determination" was over; for the act could not become a law until approved and before that is done

Congress has made its "legislative determination" without notice or hearing to anyone.

It seems to me, to say that property within a small area shall be assessed to the extent of the cost of purchasing land and buildings that stand in the line of a street extension is very unreasonable indeed.

The Court of Appeals Properly held that the Appellees were Entitled to a Trial by a Second Jury.

There is no doubt that the Court of Appeals was right in holding that by reason of the provisions of chapter 11, R. S. D. C., under which the proceedings were had, entitled the appellees to a second trial by a jury of twelve and I shall content myself by adopting what has been said in the Court of Appeals, in the three cases cited, viz, this case; Brown *vs.* MacFarland, and Todd *vs.* MacFarland, Vol. 30, No. 8, Washington Law Rep., p. —.

If the court finds it has any jurisdiction to entertain this case at all, I want to impress upon it, with great stress, the points made in this brief; for if the burdens placed upon the appellees by the verdict rendered, which the appellants heartlessly seek to have confirmed, is to stand many of them will be entirely deprived of their life savings.

Respectfully submitted.

LEO SIMMONS,
Attorney for Appellees.

31033

Supreme Court of the United States.

No. 332.—October Term, 1902.

Henry B. F. Macfarland, John W. Ross and John Biddle, Commissioners of the District of Columbia, Appellants, vs. Eugene Byrnes et al. } Appeal from the Court of Appeals of the District of Columbia.

[December 1, 1902.]

Mr. Justice Shiras delivered the opinion of the Court.

This is an appeal from a decree of the Court of Appeals of the District of Columbia, reversing a decree of the Supreme Court of the District; and there is a motion to dismiss the appeal for the alleged reason that the decree appealed from was not final, but contemplated further proceedings in the Supreme Court.

The following paragraph from the opinion of the Court of Appeals sufficiently discloses the nature of its decree:

"There is, however, a third consideration, which we cannot ignore in the disposition of this case. By the act of Congress of June 6, 1900, already mentioned, it was provided that, if for any reason the assessment for benefits should be declared void, the Commissioners should make application to the court for a reassessment. This evidently has no reference to the invalidity consequent upon judicial decision of the unconstitutionality of the act of Congress of March 3, 1899, for there could then, of course, be no lawful reassessment, since the foundation for the whole proceeding would fail. The holding of this court that the act of March 3, 1899, was unconstitutional did not, therefore, avail to set in motion the instrumentalities of the act of June 6, 1900, for reassessment. And when the Supreme Court of the United States held the act of 1899 to be a constitutional and valid exercise of legislative authority all reason for reassessment under the act of 1900 vanished. Nevertheless, by the discordant tenor of judicial decision the appellees were induced to forego a right which should now be restored to them, that of summoning a second jury of assessment under chapter 11 of the Revised Statutes of the United States for the District of Columbia, under which these proceedings were instituted and have been prosecuted, if they now desire to avail themselves of that right. They may prefer to forego that right; and they may prefer no longer to contest the justice and propriety of the assessments. If they so elect, the court will, of course, enter the proper order or decree in the cause. If, on the other hand, they elect further to contest the matter according to law, they should have the opportunity to do so. This court, therefore, should not now direct any final order or decree to be entered by the court below in the premises.

"The order appealed from, and only so far as appealed from, will be reversed; and the cause will be remanded to the Supreme Court of the District of Columbia, with directions to vacate such part of said order, and for such further proceedings in the cause according to law as may be right and just."

It thus plainly appears that the decree appealed from was neither in form nor intention a final one. Accordingly, and for the reasons given in the case of the *Commissioners* v. *Jesse Brown and Rosa Wallach*, recently decided, and where a similar question was considered, the motion to dismiss must be sustained.

The appeal is dismissed.

True copy.

Test:

Clerk Supreme Court, U. S.